

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE NATIONAL PRESCRIPTION
5 OPIATE LITIGATION Hon. Dan A. Polster
6 THIS DOCUMENT APPLIES TO ALL MDL No. 2804
7 CASES No. 17-MD-2804

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9 HIGHLY CONFIDENTIAL -
10 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

11 -- -- --

12 THURSDAY, JANUARY 10, 2019

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14 Videotaped Deposition of DONALD WALKER, held
15 at the Law Offices of COVINGTON & BURLING, One Front
16 Street, 35th Floor, San Francisco, California,
17 beginning at 8:57 a.m., before Sandra Bunch
18 VanderPol, FAPR, RMR, CRR, CALIFORNIA CSR #3032

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22 _____
23 GOLKOW LITIGATION SERVICES
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25 Deps@golkow.com

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<p>1 APPEARANCES</p> <p>2</p> <p>3 ERIC KENNEDY, ESQ. WEISMAN, KENNEDY & BERRIS CO., L.P.A. 101 W. Prospect Avenue 4 Midland Building, Suite 1600 Cleveland, OH 44115 5 (216) 781-1111 Counsel for the Plaintiffs</p> <p>6</p> <p>7 EMILY JOHNSON HENN, ESQ. EMILY KVESELIS, ESQ. 8 COVINGTON & BURLING LLP 3000 El Camino Real 9 5 Palo Alto Square Palo Alto, California 94306-2112 10 (650) 632-4715 ehenn@cov.com ekveselis@cov.com 11 Counsel for Defendant McKesson and the 12 Witness</p> <p>13</p> <p>14 ABIGAIL G. URQUHART, ESQ. JONES DAY 15 555 South Flower Street, 50th Floor Los Angeles, CA 90071 (213) 243-2884 16 urquhart@jonesday.com Counsel for Defendant Walmart</p> <p>17</p> <p>18 JOSEPH BUSHAR, ESQ. (Telephone/streaming) WILLIAMS & CONNOLLY, LLP 19 725 Twelfth Street, N.W. Washington, DC 20005 20 (650) 632-4715 jbushar@wc.com 21 Counsel for Defendant Cardinal Health</p> <p>22 (Appearances continued on next page)</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES (Continued)</p> <p>2</p> <p>3 LINDA K. RURANGIRWA, ESQ. (Telephone/stream) COLLINSON, DAEHNKE, INLOW & GRECO 2110 E. Flamingo Road, Suite 305 4 Las Vegas, Nevada 89119 (702) 979-2132 5 Linda.rurangirwa@cdiglaw.com Counsel for Defendant C&R Pharmacy</p> <p>6</p> <p>7 JUSTIN C. TAYLOR, ESQ. (Video/realtime stream) 8 BAILEY & WYANT, PLLC 500 Virginia Street East Suite 600 9 Charleston, West Virginia 25301 (304) 720-0714 10 Jtaylor@baileywyant.com</p> <p>11</p> <p>12 JUSTIN MANN, ESQ. (Video/realtime stream) ROPES & GRAY, LLP 1211 Avenue of the Americas 13 New York, New York 10036-8704 (212) 596-9175 14 Justin.mann@ropesgray.com Counsel for Defendant Mallinckrodt</p> <p>15</p> <p>16</p> <p>17 LUCY ONYEFORO, ESQ. (Video/realtime stream) ALLEGAERT BERGER & VOGEL LLP 18 111 Broadway, 20th Floor New York, New York 10006 19 (212) 616-7060 onyeforo@abv.com 20 Counsel for Defendant Rochester Drug Cooperative</p> <p>21</p> <p>22 (Appearances continued on next page)</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 APPEARANCES (Continued)</p> <p>2 SAMANTHA L. ROCCHINO, ESQ. REED SMITH LLP (Telephone/Streaming) 3 Three Logan Square 1717 Arch Street, Suite 3100 4 Philadelphia, Pennsylvania 19103 (215) 851 8100 5 sroccino@reedsmith.com Counsel for Defendant AmerisourceBergen</p> <p>6</p> <p>7 SCOTT LIVINGSTON, ESQ. MARCUS & SHAPIRA LLP 8 One Oxford Centre, 35th Floor Pittsburgh, Pennsylvania 15219 (412) 358-4690 9 livingston@marcus-shapira.com Counsel for Defendant HBC Company</p> <p>10</p> <p>11 ERIC SHAPLAND, ESQ. (Telephone) ARNOLD & PORTER KAYE SCHOLER, LLP 12 44th Floor, 777 South Figueroa Street Los Angeles, California 90017-5844 13 (213) 243-4120 eric.Shapland@arnoldporter.com 14 Counsel for Defendants Endo Pharmaceuticals, Inc. and Endo Health Solutions, Inc.</p> <p>15</p> <p>16 CIERA LOGAN, ESQ. (Telephone) FOX ROTHSCHILD LLP 17 1301 Atlantic Avenue Midtown Building, Suite 400 18 Atlantic City, New Jersey 08401-7212 (609) 572-2236 19 clogan@foxrothschild.com Counsel for Defendant Validus 20 Pharmaceuticals</p> <p>21</p> <p>22 (Appearances continued on next page)</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 APPEARANCES:</p> <p>2 CONOR B. O'CROININ, ESQ. ZUCKERMAN SPAEDER, LLP 3 100 East Pratt Street, Suite 2440 Baltimore, Maryland 21202-1031 4 (212) 616-7060 cocroinin@zuckerman.com 5 Counsel for Defendant CVS Indiana, L.L.C., CVS Rx</p> <p>6</p> <p>7 Also Present:</p> <p>8 BRIAN ASQUITH, Law Clerk 9 EVAN WOLFE, Technical Support RYAN WONG, Videographer</p> <p>10</p> <p>11</p> <p>12 Appearing Via Video/Realtime Stream:</p> <p>13 AMY KENNEDY</p> <p>14</p> <p>15 --o0o--</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1	Examination by:	Page	2	MCK-WALKER	Description
2			3	Exhibit 693	Pie Chart & Table, "McKesson
3	MR. KENNEDY	15	4		hydrocodone sales for October 1,
4	MS. HENN	357	5		2005 through January 31, 2006,
5	MR. KENNEDY	410	6	Exhibit 695	US DOJ letter dated 7/28/04 to
6	--o0o--		7		Beato from Tandy, P1.5020 - 0.88
E X H I B I T S			8	Exhibit 698	Email chain dated 4/24/08 re
7	MCK-WALKER	Description	9		"Today's CVS Conf Call," Bates
8	Exhibit 672	McKesson Operations Manual,	10	Exhibit 699	Email chain dated 7/30/08 re "CVS
9		Controlled Substance Monitoring	11		to start CSMP on 7/1/08," Bates
10		Program, Bates MCKMDL0002509 -	12	Exhibit 700	Email chain dated 8/27/08 re
11	Exhibit 674	Email chain dated 4/15/11 re	13		"Updated: Review process for CVS
12		"CSMP contribution, DCM call,	14	Exhibit 701	Email chain dated 11/12/08 re
13		Tightening up our increase	15		"CSMP: Today's internal CVS
14	Exhibit 676	Email dated 1/5/12 from McDonald	16		analysis call recap," Bates
15		re "Ongoing Due Diligence, New	17	Exhibit 702	Email chain dated 12/2/08 re
16		Questionnaires and Dispensing	18		"CSMP Update and next meeting
17	Exhibit 677	Email chain dated 11/2/12 re	19	Exhibit 703	Email chain dated 12/22/08 re
18		"Hydrocodone limits," Bates	20		"Hydrocodone increase," Bates
19	Exhibit 678	Email chain dated 8/5/14 re	21	Exhibit 704	Email chain dated 2/19/10 re "TRC
20		"Topco Member CSMP Meetings - due	22		CSMP CVS 2-19-10," Bates
21	Exhibit 680	Email chain dated 1/16/12 re "The	23	Exhibit 706	Email chain dated 8/6/10 re "CSMP
22		new questionnaires," Bates	24		and CVS - Action Plans," Bates
23	Exhibit 681	Email dated 11/30/12 from Lumpkin	25	///	MCKMDL00627048 - 049
24		re "CSMP Update - ISMC Threshold			
25		Increase Reports," Bates			
		MCKMDL00490953 - 954			
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E X H I B I T S			E X H I B I T S		
1	MCK-WALKER	Description	2	MCK-WALKER	Description
2	Exhibit 682	Graph prepared by Plaintiffs -	3	Exhibit 707	PowerPoint by Walker and McDonald
3		"McKesson: Oxycodone to Rite-Aid	4		re "CVS - Regulatory Review,"
4		#3157," P1.5076	5	Exhibit 708	Spreadsheet produced in native
5	Exhibit 684	Email dated 1/2/13 from Thomet re	6		format, Bates MCKMDL00574318,
6		"CSMP Level 1 Reviews required	7	Exhibit 709	Email dated 1/3/12 to McKenna
7		for all RNAs - effective	8		from McDonald re "CVS Controlled
8	Exhibit 685	McKesson PowerPoint, "DC	9		Substance Analysis," Bates
9		Controlled Substance Monitoring	10	Exhibit 710	Email dated 2/8/10 to McKenna
10		Program (CSMP) Overview, Bates	11		from McDonald re "CVS Threshold
11	Exhibit 686	Settlement Agreement dated	12	Exhibit 713	Email chain dated 8/2/10 re
12		4/30/08 by and between US DOJ and	13		"Narcotic Restriction," Bates
13	Exhibit 687	PowerPoint - "Directors of	14	Exhibit 714	Email chain dated 10/25/10 re
14		Regulatory Meeting, Dallas, March	15		"Fentanyl Checks," Bates
15	Exhibit 688	Memorandum dated 10/20/05 to	16	Exhibit 718	Email chain dated 11/11/13 re
16		Rannazzisi from Mapes re	17		"Campaign 3578-AMI-Mallinckrdt
17		"Internet Presentation with	18		Hydrocodone has been Released!,"
18	Exhibit 689	Memorandum dated 1/23/06 to	19	Exhibit 719	Email chain dated 8/3/12 re
19		Rannazzisi re "Meeting Between	20		"Campaign 2845-AMI-Lower Priced
20		Office of Diversion Control (OD)	21	Exhibit 720	Email chain dated 1/18/08 re
21	Exhibit 690	McKesson PowerPoint,	22		"PMIB 08-005 Purdue Frederick
22		"Presentation to the U.S.	23		Company/OxyContin C/R Tablets
23		Attorney's Office, Northern	24	///	100's," Bates MCKMDL00543462 -
24		District of West Virginia and	25	///	463
25	///	DEA," dated March 12, 2014, Bates			
		MCKMDL00409116 - 173			

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<p>1 EXHIBITS</p> <p>2 MCK-WALKER Description Page</p> <p>3 Exhibit 805 Settlement and Release Agreement 377</p> <p>4 and Administrative Memorandum of</p> <p>5 Agreement, Bates MCKMDL00516360 -</p> <p>6 383</p> <p>7 Exhibit 806 Email dated 1/22/09 re "DU45," 384</p> <p>8 Bates MCK_WVA_000167</p> <p>9</p> <p>10 Exhibit 807 Email chain dated 8/14/18 re 385</p> <p>11 "Notification of Suspicious</p> <p>12 Customer," Bates MCK_WVA_000088 -</p> <p>13 089</p> <p>14 Exhibit 808 Email chain dated 11/4/08 re 388</p> <p>15 "Questions on Daly & Suspicious</p> <p>16 Orders Electronic Reporting," Bates</p> <p>17 MCK_WVA_00139 - 145</p> <p>18</p> <p>19 Exhibit 809 Email chain dated 2/11/09 re 392</p> <p>20 "Suspicious Order," Bates</p> <p>21 MCK_WVA_00163 - 164</p> <p>22</p> <p>23 Exhibit 810 Email dated 3/11/09 to O'Keefe 393</p> <p>24 from Walker re "Modern Drug</p> <p>25 RM0336950," with attachment,</p> <p>Bates MCK_WVA_000187 - 189</p> <p>Exhibit 811 Email dated 9/1/11 to Walker from 394</p> <p>McIntyre re "Drug Depo Susp Omits</p> <p>Has Been Transmitted," Bates</p> <p>MCKMDL00524479 - 481</p> <p>Exhibit 812 PowerPoint by McKesson - 395</p> <p>"McKesson Pharmaceutical</p> <p>Controlled Substance Monitoring</p> <p>Program (CSMP), Bates</p> <p>MCKMDL00542494 - 512</p> <p>Exhibit 813 Email dated 2/23/12 to Boockholdt 407</p> <p>from Walker re "January 26</p> <p>meeting Follow-Up," with</p> <p>attachment, Bates MCK_WVA_000230</p> <p>- 232</p>	<p>1 BE IT REMEMBERED that on Thursday, the 10th</p> <p>2 day of January, 2019, commencing at the hour of</p> <p>3 8:57 a.m. in the law offices of Covington & Burling,</p> <p>4 One Front Street, 35th Floor, San Francisco,</p> <p>5 California, before me, Sandra Bunch VanderPol, a</p> <p>6 Certified Shorthand Reporter in and for the State of</p> <p>7 California, personally appeared.</p> <p>8 DONALD WALKER,</p> <p>9 called as a witness (McKesson), who, having been duly</p> <p>10 sworn, was thereupon examined and interrogated as</p> <p>11 hereinafter set forth.</p> <p>12 --o0o--</p> <p>13 THE VIDEOGRAPHER: We are now on the record.</p> <p>14 My name is Ryan Wong. I'm a videographer</p> <p>15 for Golkow Litigation Services. Today's date is</p> <p>16 January 10th, 2019, and the time is 8:57 a.m.</p> <p>17 This video deposition is being held in</p> <p>18 San Francisco, California, in the matter of National</p> <p>19 Prescription Opiate Litigation, for the United States</p> <p>20 District Court, Northern District of Ohio.</p> <p>21 The deponent is Donald Walker.</p> <p>22 Would counsel please identify themselves for</p> <p>23 the record.</p> <p>24 MR. KENNEDY: Eric Kennedy, on behalf of</p> <p>25 plaintiffs.</p>

<p style="text-align: right;">Page 14</p> <p>1 MR. ASQUITH: Brian Asquith, plaintiffs. 2 MR. WOLFE: Evan Wolfe, tech support. 3 MS. URQUHART: Abigail Urquhart, on behalf 4 of Walmart. 5 MR. LIVINGSTON: Scott Livingston, on behalf 6 of HBC. 7 MR. O'CROININ: Conor O'Croinin, on behalf 8 of CVS. 9 MS. KVESELIS: Emily Kveselis, for McKesson 10 and the witness. 11 MS. HENN: Emily Henn, from Covington & 12 Burling, on behalf of McKesson and Mr. Walker. 13 THE VIDEOGRAPHER: On the phone? 14 MR. SHAPLAND: Eric Shapland, on behalf of 15 Endo and Par, at Arnold & Porter. 16 MR. BUSHAR: Joseph Bushar, of Williams & 17 Connolly, on behalf of Cardinal Health. 18 MS. RURANGIRWA: Linda Rurangirwa. 19 Collinson, Daehnke, on behalf of C&R Pharmacy. 20 MS. ROCCHINO: Samantha Rocchino, of Reed 21 Smith, LLP, on behalf of AmerisourceBergen Drug 22 Corporation. 23 THE VIDEOGRAPHER: The court reporter is 24 Sandy VanderPol, and she will now swear in the 25 witness.</p>	<p style="text-align: right;">Page 16</p> <p>1 worldwide corporate headquarters of McKesson 2 Corporation; would that be true? 3 MS. HENN: Objection to form. 4 THE WITNESS: McKesson's corporate 5 headquarters is currently in San Francisco, 6 California. 7 BY MR. KENNEDY: 8 Q. And we are at the offices of your 9 attorney at this present time; yes? 10 A. Yes, we are. 11 Q. When did you begin your career with 12 McKesson? 13 A. I joined McKesson in 1987. 14 Q. And when you joined them, what was 15 your position? 16 A. My first position with McKesson was 17 as a Transportation Manager with one of the 18 subsidiary companies that McKesson had. 19 Q. Were your responsibilities in any way 20 involved with the regulatory affairs at that time? 21 A. No. 22 Q. And what was the next position that 23 you held with McKesson? 24 A. I held the position with the -- what 25 was then the McKesson Drug Company and</p>
<p style="text-align: right;">Page 15</p> <p>1 THE REPORTER: Raise your right hand, 2 please. 3 Do you solemnly swear or affirm that the 4 testimony you are about to give in this proceeding 5 will be the truth, the whole truth, and nothing but 6 the truth, so help you God? 7 THE WITNESS: I do. 8 EXAMINATION 9 BY MR. KENNEDY: 10 Q. Sir, my name is Eric Kennedy. You 11 understand that I represent the plaintiffs in this 12 case? 13 A. I do. 14 Q. And could you please state your full 15 name for the record. 16 A. Donald Walker. 17 Q. And are you currently employed? 18 A. I am not. 19 Q. And your prior employer was McKesson; 20 would that be true? 21 A. That's correct. 22 Q. And so the jury understands where we 23 are today, we are in San Francisco; are we not? 24 A. Yes, we're in San Francisco. 25 Q. And San Francisco would be the</p>	<p style="text-align: right;">Page 17</p> <p>1 Transportation, and had responsibility for 2 transportation planning. 3 Q. And when did you take that position? 4 A. About 1991. 5 Q. Did that position have anything to do 6 with regulatory affairs of the distribution of 7 opioids? 8 A. No, it did not. 9 Q. What did that position basically 10 involve? 11 A. The transportation position that I 12 held was really a position of optimizing delivery 13 efficiencies for our distribution centers. 14 Q. What was your next position at 15 McKesson? 16 A. I was the Distribution Center Manager 17 of our Sacramento Distribution Center. 18 Q. When did you take that position? 19 A. My best recollection is about 1992. 20 Q. And what were your duties and 21 responsibilities then, as the manager of a 22 distribution center? 23 A. I had responsibility for oversight of 24 our daily distribution of pharmaceuticals to 25 pharmacies served by that distribution center.</p>

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1 Q. And that position would have involved
2 the distribution of opioids; would it not?
3 A. As part of our distribution, we did
4 distribute controlled substances to pharmacies.
5 Q. Did you have any responsibility at
6 that point in time with respect to the creation,
7 management or implementation of anti-diversion
8 regulations and policies at McKesson?
9 MS. HENN: Object to form.
10 THE WITNESS: No. At that time I was
11 executing against existing policies the company had
12 in place.
13 BY MR. KENNEDY:
14 Q. What were in place from 1992 to the
15 late '90s? What was the policy in place?
16 A. There were -- the policies we had
17 were contained in our Operations Manuals that
18 specified our responsibilities to comply to
19 regulations for handling and distribution of
20 controlled substances.
21 Q. We know about the existence of
22 Standard Operating Procedure 55. Are you familiar
23 with that?
24 A. Yes.
25 Q. Was that the policy and procedure

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1 that was in place in the 1990s?
2 A. The Section 55 of our Operations
3 Manual covered the responsibilities with the handling
4 and distribution of controlled substances.
5 Q. Sir, that wasn't my question. I was
6 asking, was Standard Operating Procedure Section 55,
7 was that the policy in place in the 1990s?
8 A. My recollection is that Section 55
9 was the applicable policy in place during a period in
10 the 1990s.
11 Q. How long did you hold the position as
12 a Distribution Center Manager?
13 A. I recall it was approximately 18
14 months.
15 Q. So sometime in 1993/'94, you took on
16 a new position?
17 A. Yes. In 19 -- in that time frame, I
18 don't recall exactly when, I was promoted to a new
19 position of Vice President of Distribution Operations
20 for their Western Region.
21 Q. Western Region would be the western
22 part of the United States?
23 A. Yes.
24 Q. And what were your responsibilities
25 as VP of Distribution of the Western Region?

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1 A. I had responsibility for the
2 operations staff in the distribution centers that
3 comprised the Western Region. So the distribution
4 center managers that operated those facilities
5 reported to me.
6 Q. And at that point in time -- how
7 long -- how long did you hold that position?
8 A. I held that position until about
9 1996.
10 Q. And in that position, did you have
11 responsibility -- other than the following of SOP 55,
12 did you have any duties, responsibilities, with the
13 creation and the management of anti-diversion
14 policies and procedures at McKesson?
15 MS. HENN: Objection to form.
16 THE WITNESS: In that role I had
17 responsibility for the distribution centers and their
18 execution of their responsibilities under Section 55
19 to the handling and distribution of controlled
20 substances.
21 BY MR. KENNEDY:
22 Q. You held that position till what
23 year, the VP of the Western Region?
24 A. Approximately 1996.
25 Q. And what position did you take in

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1 1996?
2 A. In 1996 I was promoted to the Senior
3 Vice President of Distribution for McKesson
4 Pharmaceutical.
5 Q. Was that a new position also?
6 MS. HENN: Objection to form.
7 THE WITNESS: No. That position, I
8 succeeded an individual who retired from the company.
9 BY MR. KENNEDY:
10 Q. Is that the position you held until
11 the time of your retirement?
12 A. Yes, with the exception of a period
13 of time from approximately 2000 to 2005 where I was
14 responsible for our Six Sigma organization.
15 Q. And what is that?
16 A. Six Sigma is a process improvement
17 methodology that we introduced to the company at that
18 time, and I was the senior leader of our Six Sigma.
19 Q. Did the Six Sigma project in any way
20 relate to the distribution of opioids?
21 A. Not that I recall.
22 Q. From '96 to 2000, in this four-year
23 period, what are your responsibilities as a Senior VP
24 of Distribution as it related to the distribution of
25 opioids?

<p style="text-align: right;">Page 22</p> <p>1 A. As the Senior Vice President of 2 Distribution, included in my responsibility was our 3 Regulatory Affairs Group. It was our overall 4 responsibility to ensure that we were complying with 5 regulations associated with the handling and 6 distribution of controlled substances. 7 Q. And would that be on a national 8 basis? 9 A. Yes. 10 Q. Then from 2000 to 2005, when you no 11 longer had your responsibilities as Senior VP of 12 Distribution, who took over your responsibilities 13 during this five-year period? 14 A. I recall there were two different 15 individuals that had responsibility during that time 16 frame, a Ron Bone and a Brian Magerkurth. 17 Q. And so they had taken over your 18 responsibilities as it related to McKesson's 19 responsibilities as a distributor relating to the 20 distribution of opioids? 21 A. During -- during that time they would 22 have had the responsibility for our Regulatory 23 Affairs, yes. 24 Q. And would their responsibility and 25 your responsibility, when you were acting as the</p>	<p style="text-align: right;">Page 24</p> <p>1 Corporation"? 2 A. Yes. 3 Q. And the title would be the, 4 "Presentation to the U.S. Attorney's Office, Northern 5 District of West Virginia, and DEA." Do you see 6 that? 7 A. Yes. 8 Q. If you will -- if you will go to page 9 -122, the last three -- the last three numbers in the 10 bottom right-hand corner. 11 Is the title of this McKesson's Regulatory 12 Affairs team, Pre-Settlement"? 13 MS. HENN: Objection to form. 14 THE WITNESS: Yes. 15 BY MR. KENNEDY: 16 Q. Presettlement would be prior to 2008; 17 would that be true? There was a settlement between 18 McKesson and the DEA in 2008; do you recall that? 19 A. I recall the settlement in 2008, yes. 20 Q. And this is referencing a 21 pre-settlement; do you see that? 22 A. I see that. 23 Q. My question being, from 2000 to -- up 24 to 2008, the time of the settlement, would this have 25 been the regulatory team at McKesson?</p>
<p style="text-align: right;">Page 23</p> <p>1 Senior VP, would that have related to the policies 2 and procedures of McKesson in relation to suspicious 3 order monitoring? 4 MS. HENN: Objection to form. 5 THE WITNESS: As part of our overall 6 policies, it did include reporting of suspicious 7 orders. 8 (Exhibit No. 690 was marked.) 9 BY MR. KENNEDY: 10 Q. I am going to show you what we have 11 marked as Plaintiffs' Exhibit 690, if you would, 12 please. 13 MS. HENN: Do you have a second copy for the 14 counsel over here? ^ 15 UNIDENTIFIED SPEAKER ON TELEPHONE: And if 16 it does have a Bates number, if that could be read 17 into the record, it would be appreciated. 18 MR. KENNEDY: The Bates number, 19 McKessonMDL00409116 -- that's the starting Bates -- 20 to -73. To -173. 21 BY MR. KENNEDY: 22 Q. Mr. Walker, what is the date on this 23 document, if you look at the cover page? 24 A. The date is March 12th, 2014. 25 Q. Large capitals, "McKesson</p>	<p style="text-align: right;">Page 25</p> <p>1 MS. HENN: Objection to form. 2 THE WITNESS: Can you repeat. 3 BY MR. KENNEDY: 4 Q. In this time frame, prior to the 5 settlement, prior to 2008, would this presentation to 6 the government -- would this presentation to the 7 government accurately reflect the regulatory team at 8 McKesson? 9 A. The regulatory -- counsel, if your 10 question is if this was the regulatory team prior to 11 2008, yes. 12 Q. And -- 13 A. I'm not familiar with this document. 14 So that's why I'm answering the question that way. 15 Q. I just thought I might help you with 16 recollecting back to this period of time. 17 And so my question is, Bruce Russell is one 18 of three of the regulatory team. Do you remember 19 when he was brought on at McKesson, prior to 2008 to 20 make up the regulatory team? 21 A. I don't recall specifically when he 22 was brought on. When I joined the company, Bruce was 23 already an employee of McKesson. 24 Q. All right. And do you know when he 25 took this position as part of the regulatory team?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. I don't recall specifically. He held 2 several -- several different positions. I know that 3 it did include regulatory, but I don't know the 4 dates. 5 Q. And do you know when Mr. Hilliard was 6 brought on and made part of the regulatory team at 7 McKesson? 8 A. Again, I don't recall the specific 9 date. But Mr. Hilliard joined our regulatory team as 10 a result of our acquisition of Foxmeyer Corporation. 11 Q. And when we talk about a regulatory 12 team, can we be in agreement we are talking about the 13 team that managed -- managed and implemented the 14 policies in relation to the distribution of opioids; 15 would that be correct? 16 MS. HENN: Objection to form. 17 THE WITNESS: The regulatory team had 18 responsibility for ensuring the policies were current 19 and in compliance with the regulation, and provided 20 oversight and guidance to our distribution center 21 teams to ensure that all of our distribution centers 22 were in compliance. 23 BY MR. KENNEDY: 24 Q. And when we're talking about 25 compliance, we're talking about -- that would include</p>	<p style="text-align: right;">Page 28</p> <p>1 never understood that opioids were a controlled 2 substance? 3 A. In the regulations, I understand 4 narcotics to be a controlled substance. And what I 5 can't answer for you is whether opioids specifically 6 are called out in the regulation. 7 We were responsible for the oversight and 8 control of controlled substances, including 9 narcotics. 10 Q. Okay. My question is very simple. 11 In your long career at McKesson -- and at the end of 12 the day you were the boss with respect to 13 regulation -- and are you saying that, as you sit 14 here today, you never understood that opioids were a 15 controlled substance that the federal government was 16 addressing when they put the Controlled Substance Act 17 into law in 1970? You never understood that; is that 18 your testimony, sir? 19 MS. HENN: Objection to form. 20 BY MR. KENNEDY: 21 Q. I'm asking you about opioids. 22 A. Again, I very specifically understood 23 narcotics, and I -- 24 Q. And you didn't know about opioids? 25 A. And I don't recall opioids being in</p>
<p style="text-align: right;">Page 27</p> <p>1 compliance as it relates to the distribution of 2 opioids; true? 3 A. It would include the distribution of 4 controlled substances, yes. 5 Q. Opioids; correct? They were a 6 controlled substance? 7 A. The -- we had responsibility for all 8 controlled substances. 9 Q. Okay. I want you -- it's just a 10 simple "yes" or "no" question. 11 Opioids are a controlled substance; are they 12 not? "Yes" or "no." 13 A. I understand narcotics are a 14 controlled substance, as defined by the DEA, but I 15 don't have the expertise to understand. We 16 understood them to be controlled substances. 17 Q. Well, let me ask you this. You were 18 in charge of regulatory; you worked at the 19 distribution center; you had a long career working 20 directly with the DEA; correct? Correct? 21 MS. HENN: Objection to form. 22 THE WITNESS: I had a long career with 23 McKesson that included interaction with DEA. 24 BY MR. KENNEDY: 25 Q. And are you saying that you have</p>	<p style="text-align: right;">Page 29</p> <p>1 the regulation. 2 Q. Let me ask you, did you recall, in 3 your long, long career, did you know whether or not 4 oxycodones were within the topic of controlled 5 substances that the DEA and Congress of the 6 United States were intending to be within the purview 7 of what they wanted regulated? Did you understand 8 oxycodones were a part of that? 9 MS. HENN: Objection to form. 10 THE WITNESS: I understood oxycodone to be a 11 Class 2 narcotic, yes. 12 BY MR. KENNEDY: 13 Q. A controlled substance that you had 14 the responsibility at McKesson to regulate; correct? 15 You understood that? 16 A. Yes. 17 Q. Did you understand that hydrocodones 18 were within the purview of controlled substances that 19 the government and the DEA and Congress intended to 20 be subject to their regulation and distribution? 21 A. Yes. 22 Q. The three folks that we see here 23 making up the regulatory team -- and, again, when I 24 say "regulatory team" or "Regulatory Affairs," we 25 could understand that what we are talking about are</p>

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1 the responsibilities of McKesson as it related to the
2 prevention of diversion of controlled substances; you
3 understand that?
4 MS. HENN: Objection to form.
5 THE WITNESS: I would describe our
6 regulatory team as having responsibility to ensure
7 that our distribution centers were complying with all
8 regulations, to which McKesson was obligated.
9 BY MR. KENNEDY:
10 Q. Well, tell me what regulations
11 McKesson was obligated to with respect to the
12 distribution of controlled substances, then, so maybe
13 we can communicate better. Tell me.
14 In this period prior to 2008, tell me the
15 regulations that you just referred to that McKesson
16 was responsible to follow.
17 A. At a high level, the responsibility
18 of our distribution centers was to ensure the safe
19 handling, security, recordkeeping associated with the
20 distribution and handling of controlled substances
21 and to -- specifically under the regulation, to guard
22 against diversion and report suspicious orders.
23 Q. And that was under this -- this
24 umbrella of Regulatory Affairs; correct?
25 A. Yes, under our Regulatory Affairs

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1 Group, including our distribution centers, that was
2 our compliance responsibility.
3 Q. And prior to 2008, as you've
4 represented to the DEA in this slide presentation,
5 prior to 2008, these three folks, Mr. Walker,
6 Mr. Russell, Mr. Hilliard, they made up the
7 regulatory team; true?
8 MS. HENN: Objection to the form.
9 THE WITNESS: Prior to 2008, this was the
10 regulatory team.
11 BY MR. KENNEDY:
12 Q. So during this period prior to 2008,
13 I want to focus on 2005 to start with; all right?
14 A. Okay.
15 Q. 2005 there was an opioid crisis in
16 the United States; was there not?
17 MS. HENN: Objection to form.
18 THE WITNESS: I -- I don't have the specific
19 knowledge or recollection that there was an opioid
20 crisis in the United States at the time.
21 BY MR. KENNEDY:
22 Q. In 2005?
23 A. Correct.
24 Q. Let me ask you this. Is it just that
25 you don't remember back to 2005, or is it that you

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1 believe that back in 2005 you weren't conscious of an
2 opioid crisis in this country?
3 A. I don't recall when the term --
4 basically, the public information associated with
5 what eventually was termed "the opioid crisis" first
6 was identified.
7 Q. Well, let me ask. In 2005 you
8 understood McKesson was selling more opioid narcotics
9 than any company in the United States? You knew
10 that, didn't you?
11 MS. HENN: Objection to form.
12 THE WITNESS: No, I don't have any specific
13 information or recollection that our quantities were
14 the largest in the United States.
15 BY MR. KENNEDY:
16 Q. As you sit here today, do you know
17 and do you understand that over the years McKesson
18 has been the largest distributor of opioids in this
19 country?
20 MS. HENN: Objection to form.
21 THE WITNESS: No, I don't have that
22 knowledge.
23 BY MR. KENNEDY:
24 Q. In 2005 McKesson was selling
25 oxycodones, were they not?

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1 A. In 2005 I believe that McKesson
2 was -- oxycodone was one of the controlled substances
3 we sold.
4 Q. McKesson was selling hydrocodones;
5 were they not?
6 A. In 2005?
7 Q. Yes.
8 A. Yes.
9 Q. And if I were to tell you that with
10 respect to narcotics and controlled substances, by
11 2005 McKesson was probably selling over a billion
12 dollars worth of those narcotics, would that be
13 contrary to your memory and your belief of the level
14 of sales of McKesson in 2005?
15 MS. HENN: Objection to form.
16 THE WITNESS: I don't have any specific
17 knowledge in what our sales quantities of those
18 substances were at that time.
19 BY MR. KENNEDY:
20 Q. Let me ask you -- see if we can
21 agree. Would you agree with me that if McKesson --
22 and just assume that they are selling over a billion
23 dollars of narcotics to the American public -- could
24 we agree that they would have a responsibility back
25 in 2005 to understand whether or not there was a

<p>Page 34</p> <p>1 crisis in relation to the products that they were 2 selling? Should they understand that? 3 MS. HENN: Objection to form. 4 BY MR. KENNEDY: 5 Q. Could we agree? 6 A. I would agree our responsibility was 7 to comply with the regulations associated with the 8 reporting of suspicious orders and the guarding 9 against diversion. 10 Q. That's not what I'm asking you. And 11 you -- you're the right guy, and you understand -- 12 you heard my question; did you not? 13 MS. HENN: Counsel, could you just ask a 14 question, please. 15 BY MR. KENNEDY: 16 Q. Did you hear my question, sir? 17 A. I heard your question. 18 Q. Did you understand my question? 19 A. I understood your question. 20 Q. I'm going to ask it again, maybe in a 21 little different way. 22 If in 2005 McKesson is selling over a 23 billion dollars worth of narcotics, can we agree that 24 they would have the responsibility to know and 25 understand if their product is causing a crisis in</p>	<p>Page 36</p> <p>1 BY MR. KENNEDY: 2 Q. -- given that's what they are 3 selling? 4 MS. HENN: Objection. Asked and answered. 5 Lacks foundation. 6 BY MR. KENNEDY: 7 Q. Can you answer that question, please. 8 A. Our responsibility was to ensure that 9 we were providing pharmaceuticals and medications to 10 licensed pharmacists, based on a licensed physician's 11 prescription. 12 Q. So are you going to refuse to answer 13 that question? I want to know, and I will move on. 14 If you are not going to answer that question, I will 15 move on. 16 Are you refusing to answer my question? 17 MS. HENN: Counsel, please just pose 18 questions. He will answer them. 19 BY MR. KENNEDY: 20 Q. Are you refusing to answer my 21 question, sir? 22 MS. HENN: Objection to form. 23 THE WITNESS: Counsel, our responsibility 24 was very specific. We ensured that we were providing 25 medications to licensed pharmacies who were filling</p>
<p>Page 35</p> <p>1 this country with respect to addiction and death? 2 MS. HENN: Objection. Lacks foundation. 3 BY MR. KENNEDY: 4 Q. Can you answer that question, please. 5 A. I understand our responsibility was 6 to ensure that we were selling to a licensed and 7 registered pharmacist, who was filling prescriptions 8 from a licensed and registered physician. And we 9 complied with that. 10 Q. And I'm going to move to strike. And 11 I'm going to ask you again. 12 I want to know about your responsibility to 13 know. I don't want you to parrot something that you 14 want to say or have been prepared to say. I want you 15 to answer my question; all right? 16 And my question is: In 2005, if McKesson is 17 selling over a billion dollars worth of narcotics, 18 would you agree with me that they would have the 19 responsibility to know and understand the existence 20 of a crisis in relation to the product they are 21 selling, and that being a crisis causing addiction 22 and death? Would they be responsible to know about 23 that -- 24 MS. HENN: Objection. 25 ///</p>	<p>Page 37</p> <p>1 prescriptions for licensed physicians. 2 BY MR. KENNEDY: 3 Q. And I'm asking you about your duty to 4 know about the crisis being caused by your products. 5 Do you understand that's what I'm asking about? 6 I'm asking you whether you have the 7 responsibility to understand the crisis being caused 8 by your products? Do you understand that's my 9 question? 10 MS. HENN: Objection. Asked and answered. 11 BY MR. KENNEDY: 12 Q. That's a "yes" or a "no." Do you 13 understand that that is my question? 14 MS. HENN: Objection to form. 15 THE WITNESS: Counsel, I'm trying to answer 16 your question. I understand your question. Our 17 responsibility was very specific. And the regulation 18 was very specific. We complied with the regulations. 19 BY MR. KENNEDY: 20 Q. You complied. And so let me ask 21 you -- I'm going to write this down. I think you've 22 told me four or five times that you were 23 responsible -- and that's McKesson; right? -- to 24 comply with the regulations. And that would be the 25 regulations of the United States Government?</p>

<p style="text-align: right;">Page 38</p> <p>1 Correct? Is that correct?</p> <p>2 A. The regulations I'm referring to are</p> <p>3 contained in the CFR.</p> <p>4 MR. KENNEDY: Could I have the Elmo, please.</p> <p>5 Q. I want to make sure I get this right,</p> <p>6 because I think you've told me a number of times --</p> <p>7 and this is what you've told me. Is this accurate,</p> <p>8 then? McKesson's -- McKesson is responsible to</p> <p>9 comply with the regulations; is that your testimony?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: McKesson's responsibility was</p> <p>12 to comply with the Code of Federal Regulations in</p> <p>13 which govern the handling and distribution of</p> <p>14 controlled substances.</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. So what I wrote down here is</p> <p>17 accurate? Would that be right?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: Specifically, we were</p> <p>20 responsible to comply with the Code of Federal</p> <p>21 Regulations governing controlled substances.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Okay. Then I'm going to put in here,</p> <p>24 "Comply with the Code of Federal Regulations." And</p> <p>25 you said that was responsible for --</p>	<p style="text-align: right;">Page 40</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Have I written that accurately, sir?</p> <p>3 A. That appears to be what I said.</p> <p>4 Q. Very good. All right.</p> <p>5 So let's take a look at whether or not</p> <p>6 McKesson fulfilled its responsibility --</p> <p>7 all right? -- according to Mr. Walker's view of their</p> <p>8 responsibility. All right?</p> <p>9 A. Okay.</p> <p>10 (Exhibit No. 801 was marked.)</p> <p>11 MR. KENNEDY: If you can give me</p> <p>12 Exhibit 688, please.</p> <p>13 (Exhibit No. 688 was marked.)</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. So let's look at McKesson's</p> <p>16 fulfilling of its responsibility, then, as you have</p> <p>17 described it. This is Exhibit 688, Bates -00496859</p> <p>18 to -875.</p> <p>19 This is a memorandum. Do you see that up at</p> <p>20 the top, it says, "Memorandum"?</p> <p>21 A. Yes. Give me just a minute.</p> <p>22 Yes.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. And this is a Memorandum. This is a</p> <p>25 DEA document; is it not? Do you see the DEA logo,</p>
<p style="text-align: right;">Page 39</p> <p>1 A. The handling and distribution of</p> <p>2 controlled substances.</p> <p>3 Q. "The handling and distribution of</p> <p>4 CS," for controlled substance. All right?</p> <p>5 So is that an accurate statement of</p> <p>6 McKesson's responsibility, according to you?</p> <p>7 A. As I --</p> <p>8 Q. Take a --</p> <p>9 A. As I understand our responsibility,</p> <p>10 that is what we were responsible to do.</p> <p>11 Q. Fine. And I can put "Mr. Walker" on</p> <p>12 that; right? That's your testimony?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. True? Have I written that right?</p> <p>16 A. We were responsible to comply with</p> <p>17 Federal Regulations.</p> <p>18 Q. And I've written that accurately;</p> <p>19 correct? Simple question. If I haven't, I will</p> <p>20 rewrite it; I will write more.</p> <p>21 Have I written that correctly with respect</p> <p>22 to Mr. Walker's view as head of regulatory, your view</p> <p>23 of McKesson's responsibility?</p> <p>24 MS. HENN: Objection to form.</p> <p>25 ///</p>	<p style="text-align: right;">Page 41</p> <p>1 U.S. Department of Justice, Drug Enforcement</p> <p>2 Administration? This is a memo from the DEA, from</p> <p>3 their documents; true?</p> <p>4 A. That's what's on the document, yes.</p> <p>5 Q. Well, Mr. Walker, you have seen this</p> <p>6 document before; have you not? This came from your</p> <p>7 files.</p> <p>8 A. Yes, I have seen this document.</p> <p>9 MS. HENN: Objection to form.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. When was the last time you saw this</p> <p>12 document?</p> <p>13 A. I believe the most recent was in</p> <p>14 preparation for this deposition.</p> <p>15 Q. All right. So this is a memorandum.</p> <p>16 This is a DEA memorandum. The subject is, "Internet</p> <p>17 Presentation with McKesson Corporation on</p> <p>18 September 1, 2005"; is that right?</p> <p>19 A. That's in the subject title, yes.</p> <p>20 Q. And so what they are talking about is</p> <p>21 a September 1, 2005, meeting that McKesson had with</p> <p>22 the DEA; true? Is that true?</p> <p>23 A. Yes, I think it represents the</p> <p>24 meeting we had.</p> <p>25 Q. And this is an internal memoranda</p>

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1 that Mr. Mapes, from the DEA, created for Joseph
2 Rannazzisi of the DEA; true? Is that true?
3 A. That would appear to be correct.
4 Q. And you know who Mr. Rannazzisi of
5 the DEA is, do you not?
6 A. Yes, I do.
7 Q. He held an important position with
8 the DEA; did he not?
9 A. Mr. Rannazzisi was the head of
10 diversion control.
11 Q. And that's an important position; is
12 it not?
13 A. I believe so.
14 Q. All right. Let's read the first
15 paragraph. Again, they are talking about a
16 September 1 meeting. This is a DEA memo. It says:
17 (Reading) On September 1, 2005, a
18 meeting was held at the Office of
19 Diversion Control conference room. In
20 attendance were Mr. John Gilbert (end
21 of reading).
22 He's from McKesson; right?
23 MS. HENN: Objection to form.
24 BY MR. KENNEDY:
25 Q. He's legal counsel at McKesson?

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1 A. Mr. Gilbert is outside counsel for
2 McKesson.
3 Q. All right. A lawyer; right?
4 A. Yes, he's a lawyer.
5 Q. Ronald Bone, Senior Vice President,
6 Distribution Support. He's from McKesson; correct?
7 A. Yes.
8 Q. Gary Hilliard, Director of Regulatory
9 Affairs was present; right?
10 A. Yes.
11 Q. And as far as that -- the hierarchy,
12 the chain of command in Regulatory, he was right
13 underneath you or he was two down from you; correct?
14 We just looked at that.
15 A. At -- that's not accurate. At this
16 time I was not in the role of Senior Vice President
17 of Distribution. But ultimately he was.
18 Q. Okay. And Michael Mapes, from the
19 DEA, was at the meeting; true? Is that what it
20 indicates?
21 A. That's what the document indicates.
22 Q. Charles E. Trant, Office of Chief
23 Counsel, Diversion and Regulatory Litigation
24 Division, that was a lawyer from the DEA present at
25 the meeting; true?

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1 MS. HENN: Objection to form.
2 THE WITNESS: Again, that's what the
3 document represents.
4 BY MR. KENNEDY:
5 Q. Jim Crawford, from the DEA, he was
6 also there; correct?
7 A. According to the document.
8 Q. Kyle Wright, from the DEA, was also
9 at the meeting, according to the document?
10 A. Yes, that's what's written.
11 Q. That last sentence in the first
12 paragraph states:
13 (Reading) The purpose of the meeting
14 was to address the illegal domestic
15 Internet pharmacy problem and their
16 source of supply (end of reading).
17 Did I read that right?
18 A. Yes.
19 Q. And it says, "Illegal"; does it not?
20 A. That is what is written.
21 Q. And you understand that they said
22 they wanted to talk to you about source of supply.
23 That's McKesson, because McKesson is a source of
24 supply to pharmacies; true?
25 MS. HENN: Objection to form.

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1 BY MR. KENNEDY:
2 Q. That's what they are talking about?
3 A. McKesson's role in the pharmaceutical
4 supply chain is to supply pharmacies.
5 Q. They are a source of supply? That's
6 what they are talking about in this memo; true?
7 MS. HENN: Objection to form.
8 THE WITNESS: I'm not sure what their intent
9 in writing the "source of supply." But McKesson does
10 supply pharmacies.
11 BY MR. KENNEDY:
12 Q. Are you telling me, you don't know
13 what they mean by "source of supply"? You don't know
14 what that means?
15 MS. HENN: Objection to form. Asked and
16 answered.
17 BY MR. KENNEDY:
18 Q. Is that your testimony?
19 MS. HENN: Same objection.
20 THE WITNESS: Again, I'm not sure
21 specifically what Mr. Mapes is intending or meaning
22 there. What I can assure you is that McKesson
23 supplies pharmacies.
24 BY MR. KENNEDY:
25 Q. All right. From your background,

<p style="text-align: right;">Page 46</p> <p>1 your experience in dealing with the DEA, this is an 2 important meeting? If the DEA is bringing all these 3 folks from McKesson and the DEA is bringing all these 4 people to a meeting, and there's lawyers involved, 5 can we agree this was an important meeting? 6 A. I would acknowledge that DEA had, you 7 know, regular meetings with -- with McKesson and 8 other distributors. Their intent in this meeting, 9 you know, is it important, you know, again, I'm not 10 going to speak for DEA. It would appear to be. 11 Q. Let me ask you, meetings like this 12 didn't happen every week with the DEA where lawyers 13 are involved, the DEA is bringing all these folks, 14 and McKesson is bringing all these folks? These type 15 meetings with the DEA did not happen every week; 16 would that be true? 17 A. Meetings at DEA headquarters were 18 not, you know, frequent. 19 Q. This didn't even happen every month, 20 where this many people from McKesson were brought in 21 to meet this many people at DEA headquarters? It 22 didn't even happen once a month; did it? 23 A. Not that I recall. 24 Q. This is an unusual, important 25 meeting; is it not?</p>	<p style="text-align: right;">Page 48</p> <p>1 according to this memo, they told McKesson on 2 September 1, 2005, that the activities of the 3 Internet pharmacies, in their opinion, were illegal; 4 right? Is that what it says? 5 A. Yes. 6 Q. Then the next sentence in the 7 memoranda states: 8 (Reading) Reviewed with the 9 representatives of McKesson Corp., 10 were (end of reading). 11 And then there's some bullet points of what 12 were reviewed; true? 13 MS. HENN: Objection to form. 14 BY MR. KENNEDY: 15 Q. Do you see the bullet points? 16 A. Yes, I do. 17 Q. They talked about Supreme Court 18 cases, suspension orders with respect to Internet 19 pharmacies; right? 20 MS. HENN: Objection to form. 21 THE WITNESS: That's what is written in the 22 memo. 23 BY MR. KENNEDY: 24 Q. They talked about the DEA Internet 25 policy with McKesson; did they not?</p>
<p style="text-align: right;">Page 47</p> <p>1 A. It would appear to be. 2 Q. Let's go to the next paragraph down. 3 Again, this is a -- the DEA memo about September 1, 4 2005. The next paragraph starts with, "Mr. Mapes." 5 (Reading) Mr. Mapes opened the meeting 6 by presenting to the representatives 7 of McKesson Corporation a PowerPoint 8 briefing which explained the common 9 characteristics of Internet pharmacies 10 and why their activities are illegal 11 (end of reading). 12 So the DEA, at least according to this memo, 13 felt that these Internet pharmacies that McKesson was 14 supplying, that their activities were illegal; is 15 that what that says? 16 MS. HENN: Objection to form. 17 BY MR. KENNEDY: 18 Q. Sir, is that what that says? 19 A. I'm reading it. It says, "the common 20 characteristics of Internet pharmacies and why their 21 activities are illegal." 22 Q. "Illegal," that's the DEA word; 23 right? 24 A. That's what is written. 25 Q. And they told that -- at least</p>	<p style="text-align: right;">Page 49</p> <p>1 MS. HENN: Objection to form. 2 THE WITNESS: Again, that is what is 3 written. 4 BY MR. KENNEDY: 5 Q. They talked about some policies 6 published by the American Medical Association; true? 7 MS. HENN: Objection to form. 8 THE WITNESS: Again, documented in the -- 9 BY MR. KENNEDY: 10 Q. In the memo; right? 11 A. Yes. 12 Q. They talked about suspicious order 13 requirements of Title 21. They talked about that 14 with McKesson on this day; true? 15 MS. HENN: Objection to form. 16 THE WITNESS: That is what is written in the 17 document. 18 BY MR. KENNEDY: 19 Q. And they talked to McKesson about 20 some of the practices and ordering patterns of these 21 Internet pharmacies that they thought were engaged in 22 illegal activities; true? 23 MS. HENN: Objection to form. 24 THE WITNESS: Again, what is documented here 25 is that.</p>

<p style="text-align: right;">Page 50</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. All right. Now, let's look to the</p> <p>3 next paragraph. This is -- and I'm going to you ask</p> <p>4 you if you can agree how important this next</p> <p>5 paragraph is, though.</p> <p>6 The next paragraph states:</p> <p>7 (Reading) After the presentation,</p> <p>8 Mr. Mapes presented to representatives</p> <p>9 of McKesson Corporation specific</p> <p>10 customers of McKesson Corporation who</p> <p>11 have ordered substantial quantities of</p> <p>12 hydrocodone products. These specific</p> <p>13 customers of McKesson Corporation were</p> <p>14 (end of reading).</p> <p>15 And then they list United Prescription</p> <p>16 Services and Ninth Avenue Pharmacy; do you see that?</p> <p>17 A. I see that on the document.</p> <p>18 Q. McKesson, when they provided us with</p> <p>19 this document, put a black box. Do you know why that</p> <p>20 black box is there?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: No, I do not.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. So you agree with me, this paragraph</p> <p>25 is important because this is documenting the fact</p>	<p style="text-align: right;">Page 52</p> <p>1 So the DEA is telling McKesson here that</p> <p>2 they have to thoroughly review the materials, and</p> <p>3 they have to review in depth the purchasing patterns</p> <p>4 and quantities of their customers; is that what it</p> <p>5 says?</p> <p>6 A. That's what the document says.</p> <p>7 Q. And it indicates that the</p> <p>8 representatives of McKesson acknowledge understanding</p> <p>9 of the material presented. Is that the final</p> <p>10 statement?</p> <p>11 A. Yes, that's what's in the document.</p> <p>12 Q. Now, you have reviewed this document</p> <p>13 within the last few weeks; true?</p> <p>14 A. Yes, I believe so.</p> <p>15 Q. And you clearly would have seen this</p> <p>16 document back in 2005, 2006? We got it out of your</p> <p>17 files; correct? You saw it back then; right?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: I don't recall seeing this</p> <p>20 document, this internal DEA document, prior to the</p> <p>21 review with counsel.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Can we agree, sir, that the DEA -- at</p> <p>24 least according to this memo, could we agree that the</p> <p>25 DEA was clearly concerned about Internet pharmacies</p>
<p style="text-align: right;">Page 51</p> <p>1 that on September 1, 2005, the DEA actually pointed</p> <p>2 out to McKesson two of its customers, at least two of</p> <p>3 its customers, that McKesson was selling substantial</p> <p>4 amounts of hydrocodone products to; correct? That's</p> <p>5 important? They are actually telling McKesson,</p> <p>6 here's some Internet pharmacies that you're selling a</p> <p>7 lot of hydrocodones to. That's important; true?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: In that I wasn't at the</p> <p>10 meeting, all I can infer is that the document states</p> <p>11 that Mr. Mapes presented to representatives of</p> <p>12 McKesson specific customers of who have ordered</p> <p>13 substantial quantities of hydrocodone products.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. Let's look to the next paragraph, the</p> <p>16 final paragraph in this first page. It states:</p> <p>17 (Reading) Mr. Mapes -- he's from the</p> <p>18 DEA -- finalized the presentation by</p> <p>19 advising the representatives of</p> <p>20 McKesson Corporation that they needed</p> <p>21 to thoroughly review the materials</p> <p>22 provided which had been presented to</p> <p>23 them and review in depth the</p> <p>24 purchasing patterns and quantities of</p> <p>25 their customers (end of reading).</p>	<p style="text-align: right;">Page 53</p> <p>1 and their illegal activities? Could we agree with</p> <p>2 that, from reading this together?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 THE WITNESS: I would agree that the DEA in</p> <p>5 the meeting was highlighting the -- their concerns</p> <p>6 with -- as documented, their concerns with Internet</p> <p>7 pharmacies.</p> <p>8 BY MR. KENNEDY:</p> <p>9 Q. And could we agree that given the</p> <p>10 fact at this meeting, and that they brought everybody</p> <p>11 into headquarters, can we agree that the DEA wanted</p> <p>12 to make sure that McKesson was aware that Internet</p> <p>13 pharmacies were conducting themselves in an illegal</p> <p>14 fashion? They wanted you folks to know. Would you</p> <p>15 agree with that?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 THE WITNESS: I would agree that based on</p> <p>18 what is in this document, they are concerned over</p> <p>19 Internet pharmacies. Again, I wasn't at the meeting,</p> <p>20 so I don't understand the tone.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. Just plain common sense. If the DEA</p> <p>23 brought all you folks in from McKesson back to the</p> <p>24 DEA headquarters, could we agree they wanted McKesson</p> <p>25 to know about their concern with respect to Internet</p>

<p style="text-align: right;">Page 54</p> <p>1 pharmacies and illegal activity?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. That's why they brought McKesson in;</p> <p>5 right?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 THE WITNESS: I don't know specifically,</p> <p>8 Counsel, their intent. Clearly that was the topic</p> <p>9 that was discussed in the meeting.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. During the meeting, during this</p> <p>12 meeting, the DEA specifically pointed out that</p> <p>13 McKesson was selling a significant amount of</p> <p>14 hydrocodones to Internet pharmacies; true? I mean,</p> <p>15 we just read that. They pointed that out to McKesson</p> <p>16 at this meeting; right?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: That's what's represented in</p> <p>19 the document.</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. And this is a meeting that took place</p> <p>22 on September 1, 2005; right?</p> <p>23 A. That was the date of the meeting, as</p> <p>24 I understand it.</p> <p>25 MR. KENNEDY: All right. Let's go four</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Now, this is a DEA memo, again,</p> <p>2 written to Mr. Rannazzisi; correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Let's look to the first paragraph.</p> <p>5 They are referencing this meeting, the second meeting</p> <p>6 four months after the first. And they state:</p> <p>7 (Reading) On January 3, 2006, a</p> <p>8 meeting was held at the Office of</p> <p>9 Diversion Control conference room</p> <p>10 between representatives of McKesson</p> <p>11 Corporation and the Drug Enforcement</p> <p>12 Administration (end of reading).</p> <p>13 The second paragraph states:</p> <p>14 (Reading) Representing McKesson</p> <p>15 Corporation were Donald G. Walker" --</p> <p>16 That's you; right?</p> <p>17 A. Yes, it is.</p> <p>18 Q. You're at the second meeting; right?</p> <p>19 A. Yes, I was at this meeting.</p> <p>20 Q. And that point you were Senior Vice</p> <p>21 President of Distribution Operations; correct?</p> <p>22 A. That is correct.</p> <p>23 Q. So you're sitting on top of</p> <p>24 Regulatory Affairs at that point; true?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 55</p> <p>1 months later. All right. Four months later. If we</p> <p>2 could look at Exhibit 689, please.</p> <p>3 (Exhibit No. 689 was marked.)</p> <p>4 MR. KENNEDY: That's a Bates -00496876 to</p> <p>5 -878.</p> <p>6 Q. You have got a September 1 meeting,</p> <p>7 2005. I want to talk about four months later. You</p> <p>8 have seen this document; have you not?</p> <p>9 A. Yes, I have.</p> <p>10 Q. This is from your files.</p> <p>11 A. Yes, I have seen this document.</p> <p>12 MS. HENN: Objection to form.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. This is another -- this is another</p> <p>15 DEA memo; is it not?</p> <p>16 A. It would appear to be a DEA memo,</p> <p>17 yes.</p> <p>18 Q. And the subject of this memo is a</p> <p>19 January 3, 2006, meeting with the DEA; true? True?</p> <p>20 A. Yes.</p> <p>21 Q. So McKesson is brought into the DEA</p> <p>22 on September 1, '05. And now this is four months</p> <p>23 later, January 3, 2006; true?</p> <p>24 A. The meeting was held in January of</p> <p>25 2006, yes.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Bill Mahoney, Distribution Center</p> <p>2 Manager, Lakeland Distribution Center, Florida, was</p> <p>3 there; right? McKesson employee; true?</p> <p>4 A. Yes.</p> <p>5 Q. Gary Hilliard, Director of Regulatory</p> <p>6 Affairs, was there; right?</p> <p>7 A. Yes.</p> <p>8 Q. McKesson. He's from McKesson; right?</p> <p>9 A. Yes, he was.</p> <p>10 Q. And John Gilbert, one of McKesson's</p> <p>11 lawyers was present; true?</p> <p>12 A. That is correct.</p> <p>13 Q. And it says -- next paragraph down it</p> <p>14 outlines now who is there from the DEA. It says:</p> <p>15 (Reading) Representing Drug</p> <p>16 Enforcement Administration (DEA)</p> <p>17 Office of Diversion Control (OD) were</p> <p>18 Joseph Rannazzisi, Deputy Assistant</p> <p>19 Administrator, Michael R. Mapes,</p> <p>20 Chief, E-Commerce Section (end of</p> <p>21 reading).</p> <p>22 Another DEA person; true?</p> <p>23 A. Yes.</p> <p>24 Q. Kyle Wright, Chief E-Commerce</p> <p>25 Operations from the DEA was present; right?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. Yes.</p> <p>2 Q. And then Charles E. Trant, a DEA</p> <p>3 Chief Counsel, a lawyer, was also present; right?</p> <p>4 A. That's what's represented on the</p> <p>5 document, yes.</p> <p>6 Q. The next paragraph down. Could you</p> <p>7 read that to us. Read the next paragraph down.</p> <p>8 A. (Reading) The purpose of this</p> <p>9 meeting -- or the meeting was to</p> <p>10 discuss the delivery of over two</p> <p>11 million dosage units of hydrocodone to</p> <p>12 pharmacies located in Tampa, Florida,</p> <p>13 area alleged to be Internet pharmacies</p> <p>14 (end of reading).</p> <p>15 Q. Hadn't McKesson just met with the DEA</p> <p>16 four months earlier about Internet pharmacies and</p> <p>17 their illegal activity? Isn't that what we just</p> <p>18 looked at before this document? Four months earlier</p> <p>19 you had a meeting; correct?</p> <p>20 A. McKesson participated in a meeting in</p> <p>21 September --</p> <p>22 Q. About Internet pharmacy --</p> <p>23 A. -- 2005.</p> <p>24 Q. About Internet pharmacies and illegal</p> <p>25 activity; right?</p>	<p style="text-align: right;">Page 60</p> <p>1 sir, you know from your 20, 30 years of experience,</p> <p>2 that's a lot of hydrocodone drug; is it not? That's</p> <p>3 a lot?</p> <p>4 A. Depending on the time frame, Counsel.</p> <p>5 And I can't answer whether that's an appropriate</p> <p>6 number or an excessive number.</p> <p>7 Q. We will get on to whether or not it's</p> <p>8 appropriate or excessive as we move through this</p> <p>9 letter; all right?</p> <p>10 The bullet point -- or the next paragraph:</p> <p>11 (Reading) Mr. Mapes opened the meeting</p> <p>12 by making introductions and covering</p> <p>13 the background of previous meetings</p> <p>14 and telephone -- telephonic</p> <p>15 conversations between OD, which is the</p> <p>16 DEA, and McKesson Corporation.</p> <p>17 Specifically addressed were the</p> <p>18 following (end of reading).</p> <p>19 Did I read that right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Bullet point No. 1, they are</p> <p>22 referencing the first meeting that took place four</p> <p>23 months earlier. And this first bullet point states:</p> <p>24 (Reading) A meeting between McKesson</p> <p>25 Corp and E-Commerce Section -- that</p>
<p style="text-align: right;">Page 59</p> <p>1 A. As was represented in the document,</p> <p>2 yes.</p> <p>3 Q. And what you have just read to us, it</p> <p>4 looks like the DEA is bringing you back four months</p> <p>5 later, because McKesson sold two million dosages of</p> <p>6 hydrocodone to Internet pharmacies after that</p> <p>7 meeting; right? That's the purpose of this next</p> <p>8 meeting?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. True?</p> <p>12 A. I don't know that to be accurate.</p> <p>13 What is stated here is the delivery of two million</p> <p>14 dosages of units of hydrocodone to pharmacies in that</p> <p>15 area, which is --</p> <p>16 Q. It says Internet pharmacies --</p> <p>17 MS. HENN: Counsel, try not to speak at the</p> <p>18 same time.</p> <p>19 MR. KENNEDY: I'm sorry. I'm sorry.</p> <p>20 THE WITNESS: Internet pharmacies, but it</p> <p>21 didn't specify the time frame that they are referring</p> <p>22 to.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. Oh, we are going to get to the time</p> <p>25 frame. Because two million doses of hydrocodone,</p>	<p style="text-align: right;">Page 61</p> <p>1 would be the DEA -- was held</p> <p>2 September 1, 2005, at which time</p> <p>3 McKesson Corp. was given a full</p> <p>4 detailed briefing of the OD</p> <p>5 Distributor's initiative to address</p> <p>6 the Internet pharmacy problem.</p> <p>7 McKesson Corp. was provided a briefing</p> <p>8 book covering the briefing and all</p> <p>9 supporting documentation (end of</p> <p>10 reading).</p> <p>11 So they are talking about the meeting that</p> <p>12 took place four months earlier about the Internet</p> <p>13 pharmacies; correct?</p> <p>14 A. I believe that's correct.</p> <p>15 Q. The next bullet:</p> <p>16 (Reading) Issues to be considered were</p> <p>17 frequency of orders, size of orders,</p> <p>18 range of product purchases, and</p> <p>19 percentage of controlled versus</p> <p>20 non-controlled (end of reading).</p> <p>21 Did I read that right?</p> <p>22 A. Yes.</p> <p>23 Q. And, again, they are talking about</p> <p>24 that meeting on September 1. The next bullet point:</p> <p>25 (Reading) Current controlled</p>

<p style="text-align: right;">Page 62</p> <p>1 substances being abused via the</p> <p>2 Internet were identified as</p> <p>3 hydrocodone, alprazolam and</p> <p>4 Phentermine (end of reading).</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Look at that last bullet, though.</p> <p>8 Let's focus on that last bullet, because they are</p> <p>9 talking -- they are reflecting back on the meeting</p> <p>10 that took place four months earlier. And the DEA in</p> <p>11 that last bullet point states:</p> <p>12 (Reading) Specifically addressed</p> <p>13 concerns with United Prescription</p> <p>14 Services, a current customer of</p> <p>15 McKesson's (end of reading).</p> <p>16 Do you see that, sir?</p> <p>17 A. Yes, I see what's written.</p> <p>18 Q. So they are saying here in this</p> <p>19 memorandum that on September 1, the DEA has a meeting</p> <p>20 with McKesson and addresses concerns about United</p> <p>21 Prescription Services, one of your customers; right?</p> <p>22 A. I don't recall specifically United</p> <p>23 Prescription as a customer. But this document states</p> <p>24 this.</p> <p>25 Q. That's what it says?</p>	<p style="text-align: right;">Page 64</p> <p>1 (end of reading).</p> <p>2 Did I read that right?</p> <p>3 A. Yes.</p> <p>4 Q. On October -- next bullet point.</p> <p>5 This is four days later. So you've had a meeting on</p> <p>6 September 1; they called you a month later saying</p> <p>7 you're not taking it serious; and four days later</p> <p>8 does this bullet point state:</p> <p>9 (Reading) On October 10, 2005, a DEA</p> <p>10 investigator from the Tampa District</p> <p>11 Office contacted Bill Mahoney at the</p> <p>12 McKesson Distribution Center in</p> <p>13 Lakeland, Florida, and expressed</p> <p>14 concerns of hydrocodone sales to</p> <p>15 United Prescription Services (end of</p> <p>16 reading)?</p> <p>17 Did I read that right?</p> <p>18 A. Yes.</p> <p>19 Q. So this is a little bit after a month</p> <p>20 that the DEA warned McKesson about United</p> <p>21 Prescription Services; right? A little bit -- it's a</p> <p>22 month later?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. A month and nine days after being</p>
<p style="text-align: right;">Page 63</p> <p>1 A. That's what it says.</p> <p>2 Q. The next bullet point on the next</p> <p>3 page, it next states, "On October 6, 2005" -- that</p> <p>4 would be one month after the September 1 meeting;</p> <p>5 true?</p> <p>6 A. Yes.</p> <p>7 Q. It states:</p> <p>8 (Reading) On October 6, 2005,</p> <p>9 Mr. Mapes" -- and he's from the DEA --</p> <p>10 called Mr. Gilbert (end of reading).</p> <p>11 And he's from McKesson; right?</p> <p>12 A. Mr. Gilbert was our outside counsel.</p> <p>13 Q. So you've got on September 6, one</p> <p>14 month after the DEA meeting.</p> <p>15 (Reading) Mr. Mapes, of the DEA, calls</p> <p>16 McKesson's lawyer to discuss comments</p> <p>17 the E-Commerce Section -- and that's</p> <p>18 the DEA -- to discuss comments the</p> <p>19 E-Commerce Section had received that</p> <p>20 McKesson Corp. was not taking the</p> <p>21 Internet pharmacy problem seriously.</p> <p>22 Mr. Mapes, DEA, was assured by</p> <p>23 Mr. Gilbert that McKesson Corp. was</p> <p>24 taking the matters seriously and</p> <p>25 working to change their procedures</p>	<p style="text-align: right;">Page 65</p> <p>1 warned about United Prescription Services, McKesson</p> <p>2 is getting a call and warning them again; true? Is</p> <p>3 that what that bullet point says?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 THE WITNESS: That's what's in the document.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. The next bullet point down, "The</p> <p>8 E-Commerce Section" -- that's the DEA -- "retrieved</p> <p>9 ARCOS data" -- and that's a database where the DEA</p> <p>10 can look at what McKesson is actually distributing</p> <p>11 and selling; true? That's what the ARCOS data is?</p> <p>12 A. The ARCOS data is data that we</p> <p>13 provided -- that is required by the regulation. So</p> <p>14 it is data of sales of controlled substances that are</p> <p>15 required to be reported.</p> <p>16 Q. So it states:</p> <p>17 (Reading) The E-Commerce Section of</p> <p>18 the DEA retrieved the ARCOS data which</p> <p>19 revealed that between October 10 and</p> <p>20 October 21, 2005, the following</p> <p>21 alleged Internet pharmacies received</p> <p>22 the identified quantities of</p> <p>23 hydrocodone (end of reading).</p> <p>24 Remember, you said you can't tell us whether</p> <p>25 or not two million dosages was a lot, it depends on</p>

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1 the time frame; right? Remember you just -- you just
 2 told us that, and how many people you're selling to
 3 in the time frame; right?
 4 A. Yes.
 5 Q. We're talking about an 11-day period
 6 here; are we not? The E-Commerce Section received
 7 ARCOS data which revealed that between October 10 and
 8 October 20, 2005, the following alleged Internet
 9 pharmacies received the identified quantities of
 10 hydrocodone. We're talking about 11 days; right? Is
 11 that what we're talking about, 11 days?
 12 MS. HENN: Objection to form.
 13 THE WITNESS: That's what's documented.
 14 BY MR. KENNEDY:
 15 Q. It says here, United Prescription
 16 Services -- after being warned about them, it says
 17 here, does it not, that McKesson in this 11 days
 18 distributed them 252,100 units of hydrocodone; is
 19 that what it says?
 20 A. That's what it says and is alleged
 21 here, yes.
 22 Q. You know that at this point in time,
 23 the DEA, their statistics in ARCOS, were showing that
 24 the average monthly, average monthly distribution by
 25 a distributorship of McKesson was 5,000 units of

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1 hydrocodone? Do you remember that? Remember that
 2 communication, all during this period?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: I recall DEA indicating that
 5 5,000 doses of controlled substances was average.
 6 BY MR. KENNEDY:
 7 Q. That's an average monthly dose;
 8 right?
 9 A. That's what I recall.
 10 Q. And, sir, so McKesson sends to United
 11 Prescription Services in an 11-day period, 50 times,
 12 50 times the monthly dosage; is that what it says?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: That's what the document says.
 15 BY MR. KENNEDY:
 16 Q. So I think you told us a couple
 17 minutes ago, to tell us whether or not the amount
 18 that you folks are distributing into a pharmacy, you
 19 need to know the time frame and the number of
 20 pharmacies.
 21 Can we agree that if McKesson send 50 times,
 22 50 times the monthly dosage in 11 days, that's
 23 inappropriate? That's too much?
 24 MS. HENN: Objection to form.
 25 ///

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1 BY MR. KENNEDY:
 2 Q. Would you agree with that?
 3 A. No, I don't agree specifically,
 4 because -- not understanding their pharmacies across
 5 the country, that have a wide variety of business
 6 models that require substantial quantities of
 7 controlled substances. And it also is based on DEA's
 8 average.
 9 Our view was that DEA -- how they calculated
 10 their average, we didn't understand. So their
 11 alleged average, whether it's accurate or not, we
 12 didn't know.
 13 Q. Let me ask you this. Forget the
 14 averages and forget everything else. You were
 15 involved in this, sir, for how many years?
 16 A. Probably 15 years in the role.
 17 Q. Given your background, experience, as
 18 we sit here today, sir, can you agree with me that if
 19 McKesson sent 250,000 units of hydrocodone to a
 20 single pharmacy in 11 days, sir, that is absolutely,
 21 positively, an extraordinary amount that should never
 22 have been shipped? Could we agree with that?
 23 A. What I would agree with is that we
 24 were -- all of these pharmacies were licensed and
 25 registered pharmacies, registered by the DEA, and we

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1 were filling prescriptions that were submitted to us,
 2 you know, based on a licensed pharmacy coming from a
 3 licensed prescription.
 4 Q. Sir, McKesson lost its license in six
 5 different distribution centers and was fined
 6 \$13 million for this, and you're sitting here telling
 7 us that sending 250,000 units of hydrocodone in 11
 8 days is appropriate? Is that what you're telling us?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: What I can assure you is that
 11 we were fulfilling orders for pharmacies that were
 12 licensed and registered by the DEA and were
 13 submitting to us orders.
 14 BY MR. KENNEDY:
 15 Q. The next bullet down, it says during
 16 an 11-day period you sent Universal Rx 254,700 units
 17 of hydrocodone. Is that what it says next?
 18 A. That's what the document says.
 19 Q. That would be 50 times the national
 20 average, would it not, for a full month; true?
 21 MS. HENN: Objection to form.
 22 BY MR. KENNEDY:
 23 Q. Is that right?
 24 A. The --
 25 Q. Did I did do the division right? If

<p style="text-align: right;">Page 70</p> <p>1 I put 50 into 250,000, it's about 50 times the 2 national average. Is that -- is my math right? I 3 suppose that's what I'm asking. 4 MS. HENN: Objection to form. 5 THE WITNESS: Again, the document indicates 6 that we shipped 250,000 dose units in -- in that time 7 frame. I don't have any independent knowledge of, A, 8 whether the quantities alleged is correct because I 9 don't have the original information or data; nor, as 10 I stated, the average, whether it was correct -- 11 BY MR. KENNEDY: 12 Q. Well, sir -- 13 A. Based on DEA's view. 14 Q. -- you don't have any knowledge 15 whether these are correct? You were directly 16 involved with this memo from the beginning, and this 17 led to negotiations and a settlement, and McKesson 18 losing its license to distribute opioids and a 19 \$13 million fine; did it not? You were directly 20 involved with that; were you not? 21 MS. HENN: Objection to form. 22 THE WITNESS: I was directly involved in the 23 settlement with DEA and the penalties that were 24 associated with that. 25 ///</p>	<p style="text-align: right;">Page 72</p> <p>1 then your math is correct. 2 BY MR. KENNEDY: 3 Q. And then Medipharma Rx, 500,900 in 11 4 days. Again, if my math is correct, that's a hundred 5 times the national average in 11 days; right? 6 MS. HENN: Objection to form. 7 THE WITNESS: Again, the way you calculate 8 it, using that average and these documented numbers, 9 your math would be right. 10 BY MR. KENNEDY: 11 Q. And then to the Accumed Pharmacy, 12 404,400. And that would be 80 times the national 13 average; would it not? 14 MS. HENN: Objection to form. 15 BY MR. KENNEDY: 16 Q. Is that right? 17 A. Again, using your calculations, that 18 would be 80 times. 19 MR. KENNEDY: Could I have the Elmo, please. 20 MS. HENN: Counsel, we have been going over 21 an hour. Would this be a decent time for a five-, 22 ten-minute break? 23 MR. KENNEDY: Sure. 24 THE VIDEOGRAPHER: We are going off the 25 record. The time is 10:07 a.m.</p>
<p style="text-align: right;">Page 71</p> <p>1 BY MR. KENNEDY: 2 Q. And you said you don't know whether 3 these numbers are accurate. Did McKesson ever, ever, 4 in fighting its suspension and the \$13 million fine, 5 did they ever claim that the numbers were inaccurate, 6 ever? 7 MS. HENN: Objection to form. 8 BY MR. KENNEDY: 9 Q. You were directly involved. Did they 10 ever say, well, we didn't really sell all that, ever? 11 A. I don't recall that we have ever had 12 the discussion with DEA around those numbers. 13 Q. It next states, "Avee Pharmacy." You 14 sold those folks, a single pharmacy, 520,000 units of 15 hydrocodone in 11 days. Is that what it says? 16 A. That's what the document says. 17 Q. That's a hundred times the 30-day 18 national average. And McKesson did that in 11 days; 19 is that -- is that right? Is my math right? 20 MS. HENN: Objection to form. 21 BY MR. KENNEDY: 22 Q. Is that right, sir? 23 A. Again, using those numbers, as I 24 stated earlier, the average, whether that's correct 25 or incorrect. But if that's what's alleged here,</p>	<p style="text-align: right;">Page 73</p> <p>1 (Recess taken.) 2 THE VIDEOGRAPHER: We are back on the 3 record. The time is 10:22 a.m. 4 BY MR. KENNEDY: 5 Q. Mr. Walker, we just went through the 6 DEA's outline of McKesson's sale of two million 7 hydrocodones to six different pharmacies. I'm going 8 to go back for a second. I'm going to stop there on 9 this memo and reflect upon what you told us earlier. 10 This was your statement earlier with respect 11 to McKesson's responsibility; correct? Remember 12 going through that? 13 A. Yes. 14 Q. And Mr. Walker said, "McKesson's 15 responsibility was they were responsible to comply 16 with the Code of Federal Regulations in the handling 17 and distribution of controlled substances." That was 18 your statement with respect to McKesson's 19 responsibility; true? 20 A. Yes, it was. 21 Q. Hydrocodone is a controlled 22 substance; right? 23 A. Yes, it is. 24 Q. Can we agree that if McKesson -- as 25 the DEA has outlined here, if McKesson distributed</p>

<p style="text-align: right;">Page 74</p> <p>1 two million hydrocodones in 11 days to just six 2 pharmacies, that McKesson did not live up to the 3 responsibility that you have told us that they had? 4 MS. HENN: Objection to form. 5 BY MR. KENNEDY: 6 Q. Would you agree? 7 A. No, I wouldn't agree with that 8 statement. 9 Q. So -- just so we're clear here. On 10 the record here today, under your oath, it's your 11 position that the sale of two million hydrocodones in 12 11 days to six pharmacies is consistent with and 13 comports with McKesson's responsibility to comply 14 with Federal Regulations in the handling and 15 distribution of controlled substances; is that -- 16 MS. HENN: Objection. 17 BY MR. KENNEDY: 18 Q. -- is that your testimony here? 19 MS. HENN: Objection. Asked and answered. 20 BY MR. KENNEDY: 21 Q. Is that your testimony? I want to be 22 very clear. 23 MS. HENN: Objection. Asked and answered. 24 THE WITNESS: I don't agree with your 25 original statement. What I would state is that we</p>	<p style="text-align: right;">Page 76</p> <p>1 took place between counsels. 2 Q. Did you sign the agreement with the 3 DEA in relation to these violations, these sales of 4 hydrocodones? Did you sign the very settlement 5 agreement; sir? 6 A. I signed the 2008 memorandum 7 agreement, yes. 8 Q. Let me back up, because I just -- I 9 just want to be clear about it. 10 Is it your position, sir -- not in general 11 terms but with respect to the specifics, is it your 12 position that the sale of two million hydrocodones in 13 11 days to six pharmacies comported with, was 14 consistent with, McKesson's responsibility to comply 15 with the Code of Federal Regulations in the handling 16 and distribution of controlled substances? 17 MS. HENN: Objection to form. 18 BY MR. KENNEDY: 19 Q. If you can answer that specific 20 question. 21 A. We specifically complied with the 22 regulations as associated with the reporting of 23 suspicious orders and guarding against diversion 24 through the security and controls that we put in 25 place to handle controlled substances.</p>
<p style="text-align: right;">Page 75</p> <p>1 complied with the regulations regarding the 2 distribution. We reported to DEA. We sold only to 3 licensed pharmacies who had a licensed physician's 4 prescriptions. And we managed the security of our 5 controlled substances in compliance with the 6 regulations. 7 BY MR. KENNEDY: 8 Q. That wasn't my question. But you 9 just said you reported to the DEA. Am I correct that 10 not one single one, not one single one of these 11 orders that added up to two million hydrocodones in 12 11 days, not one single one of them was reported to 13 the DEA; isn't that the fact? 14 MS. HENN: Objection to form. 15 BY MR. KENNEDY: 16 Q. That's the fact? 17 MS. HENN: Objection to form. 18 THE WITNESS: I have no knowledge of that 19 either way. 20 BY MR. KENNEDY: 21 Q. Sir, you sat through the meetings, 22 the negotiations, the pleadings, and all of the legal 23 proceedings with respect to this event; did you not? 24 A. No, that's not accurate. I did not 25 sit through all the meetings and negotiations that</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. The DEA didn't agree with that. The 2 DEA doesn't agree that you fulfilled your legal 3 responsibilities with the sale of two million in 11 4 days? The DEA didn't agree; did they? 5 MS. HENN: Objection to form. 6 BY MR. KENNEDY: 7 Q. The DEA did not agree, and they made 8 it clear; didn't they? 9 MS. HENN: Objection to form. 10 THE WITNESS: Our memorandum of agreement 11 was an agreed settlement between the DEA and 12 McKesson. And the basis of that, the legal basis, I 13 don't understand all the details, so I'm not sure 14 whether I can answer whether the DEA agreed or 15 disagreed. 16 BY MR. KENNEDY: 17 Q. Let's go back -- let's go back to the 18 memorandum. We will see what the DEA said about two 19 million pills in 11 days; all right? 20 Page -877, is that what we are on? The six 21 bullet points about the amounts sold to each. 22 We have gone through the two million pills 23 in 11 days. And let's see what the DEA thought of 24 that, sir. 25 You were at this meeting; were you not?</p>

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1 A. I was at that meeting.
2 Q. The memo says, with regard to that
3 meeting:
4 (Reading) Mr. Rannazzisi -- he's of
5 the DEA -- then addressed the
6 representatives of McKesson and
7 informed them that it was his
8 concerted opinion that based upon the
9 information presented, the DEA needed
10 to ask for the surrender of McKesson's
11 Lakeland Distribution Senator --
12 Center registration or the DEA would
13 pursue an Order to Show Cause against
14 the DEA registrant of the McKesson
15 facility in Lakeland, Florida (end of
16 reading).
17 Is that what you were told at that meeting,
18 that they wanted McKesson's registration? Is that
19 what you were told?
20 MS. HENN: Objection to form.
21 THE WITNESS: I recall Mr. Rannazzisi in
22 that meeting requesting that we surrender our
23 Lakeland, Florida, registration.
24 BY MR. KENNEDY:
25 Q. And that means you're not going to be

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1 able to sell narcotics to pharmacies: Right? If you
2 have got to give your registration back, that's what
3 that means?
4 A. If a registration is suspended or
5 revoked, then you're unable to sell controlled
6 substances.
7 Q. So when you say selling two million
8 pills in 11 days is okay, that you're fulfilling your
9 responsibility under the regulations, the DEA didn't
10 agree with that; did they?
11 MS. HENN: Objection to form.
12 BY MR. KENNEDY:
13 Q. They want your registration?
14 MS. HENN: Objection to form.
15 THE WITNESS: The DEA requested we surrender
16 our registration during that meeting.
17 BY MR. KENNEDY:
18 Q. And you ended up surrendering your
19 registration; didn't you?
20 MS. HENN: Objection to form.
21 THE WITNESS: Counsel, that's not correct.
22 We had a limited suspension of certain controlled
23 substances from certain distribution centers, is the
24 result of the agreement with DEA.
25 ///

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1 BY MR. KENNEDY:
2 Q. We will look at that specifically.
3 Let's go down to -- after some bullet points, I want
4 to go down to the paragraph that starts with
5 "Through."
6 Do you see this paragraph that starts with
7 "Through"?
8 (Reading) Through the course of the
9 above discussion, McKesson Corp., by
10 their own admission, was unable to
11 provide a plausible explanation for
12 the sales of over two million dosage
13 units of hydrocodone, in a 21-day
14 period, to pharmacies previously
15 identified by DEA to McKesson Corp.
16 (end of reading).
17 Do you see that?
18 A. I see what's written there, yes.
19 Q. Do you remember that, that all these
20 folks at McKesson are sitting there with your
21 lawyers, and you can't explain how you did this? Do
22 you remember that?
23 MS. HENN: Objection to form.
24 THE WITNESS: I don't recall any specific
25 discussion with the DEA around that. So the answer

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1 is --
2 BY MR. KENNEDY:
3 Q. Do you remember -- do you remember
4 saying --
5 MS. HENN: Counsel, can you make sure to let
6 him finish.
7 MR. KENNEDY: I'm sorry.
8 Q. Do you remember you folks at McKesson
9 telling the DEA at this meeting, there's nothing
10 wrong with two million pills in 11 days; we fulfilled
11 our responsibility under the regulations? Do you
12 remember saying that to them at this meeting?
13 A. No, I don't remember saying anything
14 like that.
15 Q. You said earlier you weren't sure
16 whether these numbers, this two million, they were
17 accurate. Any indication on here that you looked at
18 the DEA at that meeting and said that two million,
19 that two million hydrocodones isn't accurate? Any
20 indication of that, or do you have a memory of that?
21 MS. HENN: Objection to form.
22 THE WITNESS: I don't have a recollection of
23 that one way or the other.
24 BY MR. KENNEDY:
25 Q. Let's look at the last paragraph on

<p style="text-align: right;">Page 82</p> <p>1 that page. It states that: 2 (Reading) After the conclusion of this 3 meeting, it was learned from Gary 4 Hilliard of McKesson that one of the 5 reasons they were not able to realize 6 the full volume of hydrocodone product 7 going out to Florida pharmacies was 8 that their reports only included the 9 name brand hydrocodone products 10 distributed and was -- next page -- 11 and was leaving out the generic 12 products. It was only after realizing 13 that the generic were not being 14 reported was McKesson Corp. then able 15 to see the large quantities that DEA 16 was bringing to McKesson's attention 17 (end of reading). 18 Did I read that right? 19 A. Yes. 20 Q. It doesn't say here that you went 21 back and looked and the DEA was wrong; does it? 22 A. What is documented here is that 23 Mr. Mapes reportedly had a conversation with Gary 24 Hilliard. I'm not directly familiar with that 25 conversation.</p>	<p style="text-align: right;">Page 84</p> <p>1 THE WITNESS: Again, I don't have any 2 specific knowledge one way or the other. 3 BY MR. KENNEDY: 4 Q. Let me ask you this. If you weren't 5 tracking generic drugs with your reporting and your 6 tracking, if you weren't tracking hydrocodone, can we 7 agree you weren't tracking oxycodone either; true? 8 MS. HENN: Objection to form. 9 BY MR. KENNEDY: 10 Q. Is that what you discovered? 11 MS. HENN: Objection to form. 12 THE WITNESS: There -- I had no indication 13 that we weren't tracking oxycodone. 14 BY MR. KENNEDY: 15 Q. Are you -- are you representing to 16 the jury that you had one system of tracking for 17 hydrocodones and a totally different system of 18 tracking for oxycodones? Is that what you're telling 19 us, sir? 20 MS. HENN: Objection to form. 21 THE WITNESS: No, that's not accurate. Our 22 overall system was one and the same. The inputs into 23 that system could have potentially created a void in 24 the reporting of hydrocodone and had nothing to do 25 with oxycodone.</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. This is 2006, and McKesson discovers 2 at this point that its reports did not include the 3 sales of generic hydrocodones; isn't that what it 4 indicates? 5 A. That's what's documented here. 6 Q. And tell the jury what generic 7 hydrocodones are. 8 A. In all pharmaceuticals or medicines, 9 as a brand drug comes to market, it stays brand for a 10 period of time, at which time a generic drug can be 11 manufactured that has the same pharmacological 12 characteristics as the brand medication. So it's 13 very common in pharmaceutical industry for generics. 14 Amoxicillin is probably the best example that 15 everybody would know. 16 Q. And, sir, the majority of 17 hydrocodones that McKesson was selling were generic; 18 were they not? 19 A. I do not know what quantities were 20 brand versus generic at that point in time. 21 Q. In a general sense, that has always 22 been true at McKesson? You sell more generics than 23 you do brand name controlled substances; hasn't that 24 always be true? 25 MS. HENN: Objection to form.</p>	<p style="text-align: right;">Page 85</p> <p>1 BY MR. KENNEDY: 2 Q. Is that what was happening, sir? You 3 were in the middle of this. Is that what was 4 happening, your system wasn't tracking generic 5 hydrocodones but, indeed, was tracking generic 6 oxycodones? Is that what was happening? 7 MS. HENN: Objection to form. 8 THE WITNESS: I don't recall specifically. 9 I do recall we had an issue with our system at the 10 time. But I don't recall the specifics of that. 11 BY MR. KENNEDY: 12 Q. Sir, if your system was not tracking 13 hydrocodones, generic hydrocodones in '05, then it 14 wasn't tracking them in '04 or '03 or '02 or '01; 15 true? 16 MS. HENN: Objection to form. 17 BY MR. KENNEDY: 18 Q. It never had been? 19 MS. HENN: Objection to form. 20 THE WITNESS: I can't speculate on if this 21 was taking place, when it started, and to the extent 22 that it took place. 23 BY MR. KENNEDY: 24 Q. Sir, you were in charge at that 25 point. Didn't you say to Mr. Hilliard and the folks</p>

<p style="text-align: right;">Page 86</p> <p>1 working for you, how long has this been going on, 2 that we haven't been tracking generic hydrocodones? 3 Did you ask? 4 MS. HENN: Objection to form. 5 THE WITNESS: I don't recall having any 6 specific request or discussions around this. 7 BY MR. KENNEDY: 8 Q. Sir, McKesson had the duty since 1970 9 to identify and report suspicious orders of 10 controlled substances; did they not? 11 A. I don't know specifically when the 12 CFR was generated. It was in the early '70s. But in 13 the time that I was there, we had the responsibility. 14 Q. And that included generic 15 hydrocodones, did it not, that duty, that 16 responsibility? 17 MS. HENN: Objection to form. Lacks 18 foundation. 19 THE WITNESS: We were responsible to report 20 the sales of all pharmaceutical or controlled 21 substances that were reportable to the DEA. 22 MR. KENNEDY: Okay. I'm going to ask to 23 strike your answer. Could you read back my question, 24 sir. I want you to listen real careful, and I want 25 you to answer this question. Not what you want to</p>	<p style="text-align: right;">Page 88</p> <p>1 chemically; were they? 2 MS. HENN: Objection to form. 3 BY MR. KENNEDY: 4 Q. Branded versus generic aren't 5 different chemically? 6 A. Generally, my understanding is that 7 they were very close, if not identical, in terms of 8 chemical makeup. But, again, I don't have the level 9 of expertise to testify absolutely that they were the 10 same. 11 Q. Generic hydrocodone, sir, your 12 understanding generic hydrocodone was just as likely 13 to cause an overdose and death as a named brand 14 hydrocodone; true? 15 MS. HENN: Objection to form. 16 THE WITNESS: My understanding is that 17 generic hydrocodone, as it's designed for medical 18 purposes, it was the same as brand hydrocodone. 19 BY MR. KENNEDY: 20 Q. Sir, at this point in time, with 21 respect to McKesson's coming to understand in 2006 22 that they weren't tracking generic hydrocodones, 23 would that have been true nationwide? You didn't 24 have a different system before; did you? That would 25 have been true nationwide?</p>
<p style="text-align: right;">Page 87</p> <p>1 answer. I want you to answer what I'm asking this 2 point forward, if you could. 3 MS. HENN: Objection to form. 4 MR. KENNEDY: Could you read it back, 5 please. 6 (Record read as follows: QUESTION: 7 And that included generic 8 hydrocodones, did it not, that duty, 9 that responsibility?) 10 MS. HENN: Same objection. Lacks 11 foundation. 12 THE WITNESS: Hydrocodone -- all hydrocodone 13 was a reportable controlled substance. 14 BY MR. KENNEDY: 15 Q. Including generic hydrocodone; true? 16 A. Including generic hydrocodone, yes. 17 Q. Because generic hydrocodone, sir, is 18 just as addictive as brand-name hydrocodone; is it 19 not? 20 MS. HENN: Objection to form. 21 THE WITNESS: I have no expertise on 22 addiction rates or addiction. So I can't comment 23 whether -- one versus the other. 24 BY MR. KENNEDY: 25 Q. They weren't any different</p>	<p style="text-align: right;">Page 89</p> <p>1 A. Our system was a national system. 2 So, yes, anything that occurred in Florida would have 3 been consistent across the country. 4 Q. In Ohio; correct? 5 A. If we distributed generic hydrocodone 6 in Ohio. 7 Q. West Virginia? 8 A. Again, we service all 50 states. 9 Q. And you don't know how long this had 10 been going on? Is that your testimony today, you 11 don't know how long it was prior to '06, prior to 12 '05, that McKesson was not tracking its sales and 13 distribution of generic hydrocodone; is that true? 14 MS. HENN: Objection to form. Lacks 15 foundation. 16 THE WITNESS: I do not know the time frame, 17 whether it was a point in time or occurred over a 18 period of time. So the answer is, I do not know. 19 BY MR. KENNEDY: 20 Q. By 2005, though, you understood, did 21 you not, that hydrocodones were one of the major 22 causes of addictions in the United States? You knew 23 that by 2005; didn't you? 24 MS. HENN: Objection to form. 25 THE WITNESS: I don't recall, you know,</p>

<p>Page 90</p> <p>1 specifically having any awareness of hydrocodone</p> <p>2 being a national issue in 2005.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. By 2005, sir, didn't you understand</p> <p>5 that hydrocodones were one of the most highly</p> <p>6 diverted drugs in this country?</p> <p>7 MS. HENN: Objection to form. Lacks</p> <p>8 foundation.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. Do you understand that by 2005?</p> <p>11 MS. HENN: Same objection.</p> <p>12 THE WITNESS: I don't -- I don't have any --</p> <p>13 any recollection or knowledge of that.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. So at this point in time, in 2005 to</p> <p>16 early 2006, when you have this period where you sell</p> <p>17 two million hydrocodones, are you saying that you did</p> <p>18 not understand that hydrocodones were one of the most</p> <p>19 highly diverted drugs in this country? You didn't</p> <p>20 know that?</p> <p>21 MS. HENN: Objection. Asked and answered.</p> <p>22 Lacks foundation.</p> <p>23 THE WITNESS: I had no knowledge or</p> <p>24 understanding of addiction rates of hydrocodone.</p> <p>25 ///</p> <p>Page 91</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. You had been selling hydrocodones for</p> <p>3 a decade or more, making millions of dollars, and you</p> <p>4 didn't understand that; is that your testimony?</p> <p>5 MS. HENN: Objection. Asked and answered.</p> <p>6 Lacks foundation.</p> <p>7 THE WITNESS: In 2005 I had no knowledge and</p> <p>8 don't recall.</p> <p>9 MR. KENNEDY: I am going to give you</p> <p>10 Exhibit 695.</p> <p>11 (Exhibit No. 695 was marked.)</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Sir, I'm going to show you --</p> <p>14 MS. HENN: Counsel, this appears to have</p> <p>15 been printed without Bates number or confidentiality</p> <p>16 stamp. So we would just ask, for the record, that</p> <p>17 those -- the number and the confidentiality</p> <p>18 designation be read into the record, if you have it.</p> <p>19 MR. KENNEDY: The Bates numbers?</p> <p>20 MS. HENN: The Bates number, so the people</p> <p>21 on the phone know what you're looking at.</p> <p>22 MR. KENNEDY: These are not Bates numbered.</p> <p>23 This comes from the U.S. Department of Justice, Drug</p> <p>24 Enforcement Administration.</p> <p>25 MS. HENN: Has it not been produced in this</p>	<p>Page 92</p> <p>1 litigation?</p> <p>2 MR. KENNEDY: Well, I can't tell you I've</p> <p>3 got a memory of all 20 million documents produced, so</p> <p>4 I really don't know.</p> <p>5 MS. HENN: Okay.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. Do you see the DEA logo on</p> <p>8 Exhibit 695, sir?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Does it say, "U.S. Department of</p> <p>11 Justice, Drug Enforcement Administration"; correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you see the Bates stamp there?</p> <p>14 They are -- they are not Bates stamped, but a date</p> <p>15 stamp of July 28, 2004; do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And you were just telling me you</p> <p>18 don't think you had knowledge of -- with respect to</p> <p>19 the diversion, the addiction of hydrocodones in 2005.</p> <p>20 That's what we were talking about; right?</p> <p>21 MS. HENN: Objection. Asked and answered.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Correct, sir? Is that what we just</p> <p>24 were talking about, your knowledge in 2005; right?</p> <p>25 A. That's correct.</p> <p>Page 93</p> <p>1 Q. And then in 2005 you were the boss</p> <p>2 with respect to McKesson's regulation, diversion of</p> <p>3 controlled substances; correct?</p> <p>4 MS. HENN: Objection. Lacks foundation.</p> <p>5 THE WITNESS: In the latter part of 2005, I</p> <p>6 assumed that responsibility.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. All right. And this is July '04. So</p> <p>9 this is -- this is even before that date; right? So</p> <p>10 this is available before that date; all right?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Go to page 2. 132 at the bottom,</p> <p>14 page 2 up at the top. The second sentence,</p> <p>15 "Despite." Does it state:</p> <p>16 (Reading) Despite their obvious</p> <p>17 utility in medical practice, as stated</p> <p>18 above, hydrocodone products are among</p> <p>19 the most popular pharmaceutical drugs</p> <p>20 associated with drug diversion,</p> <p>21 trafficking, abuse and addiction (end</p> <p>22 of reading)?</p> <p>23 Is it your testimony you did not know that</p> <p>24 in 2005?</p> <p>25 A. Counsel, as I answered, I do not</p>
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1 recall having any specific knowledge of hydrocodone
2 or this issue. This is the first time I've seen this
3 document and had no other personal knowledge.
4 Q. Well, you're in charge of Regulatory
5 in 2005; right?
6 MS. HENN: Objection to form.
7 THE WITNESS: I assume --
8 BY MR. KENNEDY:
9 Q. Correct?
10 A. I assumed responsibility for
11 Regulatory in September of 2005.
12 Q. And McKesson is selling millions upon
13 millions of hydrocodones in 2005; are they not?
14 A. I don't know specifically the
15 quantities that we were selling. We sold hydrocodone
16 as one of the controlled substances we provided to
17 our licensed pharmacies.
18 Q. Look at the first bullet. And this
19 is a -- this is in a government available document.
20 Look at the first bullet, "Hydrocodone has an abuse
21 liability similar to morphine."
22 Did you know that?
23 MS. HENN: Objection to form.
24 BY MR. KENNEDY:
25 Q. Did you know that in 2005?

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1 A. No, Counsel, I -- as I said, I don't
2 have and did not have any personal knowledge of, you
3 know, hydrocodone or its comparison to morphine.
4 Q. Look at the next bullet, first
5 sentence. Now you're in charge of making sure that
6 hydrocodones as a controlled substance are not being
7 diverted; correct?
8 A. We had the responsibility --
9 Q. I asked you about, were you in charge
10 of that responsibility?
11 MS. HENN: Objection to form.
12 Let the witness finish his answer, please.
13 THE WITNESS: I had responsibility for our
14 regulatory and our compliance, which included
15 guarding against and preventing -- guarding against
16 the diversion of controlled substances.
17 BY MR. KENNEDY:
18 Q. Does the next bullet point in this
19 DEA document say, "Hydrocodone products are
20 associated with significant diversion"? Does it
21 state that?
22 A. Paragraph 2, that's what the document
23 says. And DEA is alleging, yes.
24 Q. You say, "DEA is alleging." Is that
25 what you said? Did you say, "DEA is alleging"?

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1 A. This is -- this is their document.
2 Q. When you say "allege," you didn't --
3 there's not much question about that. This is more
4 than an allegation. That's the truth in 2005, from
5 everything you know, sir? Fifteen years in this,
6 that's the truth; is it not?
7 MS. HENN: Objection to form. Lacks
8 foundation.
9 THE WITNESS: Counsel, again, I -- as I
10 stated, I do not remember having any specific
11 recollection around discussions either -- or
12 documents around hydrocodone's addictive and its
13 comparison to others.
14 BY MR. KENNEDY:
15 Q. I just want to go back.
16 A. I'm just simply looking at the
17 document and trying to answer your question.
18 Q. I just want to ask you real simple.
19 You used the words, "DEA alleges." Was the problem
20 in 2005 that you and McKesson thought that these were
21 just DEA allegations with respect to hydrocodones and
22 diversion? Did you think these were just
23 allegations?
24 MS. HENN: Objection to form.
25 Mischaracterizing the testimony and lacks foundation.

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1 BY MR. KENNEDY:
2 Q. Is that what you thought in 2005,
3 sir?
4 A. Counsel, I was answering your
5 question specific to this document. I don't know.
6 And certainly I'm not sure I can answer the question
7 as you asked it.
8 Q. Next says -- next bullet, first
9 sentence, "Hydrocodone products are associated with
10 significant drug abuse."
11 Did you know that in 2005, as the person who
12 was in charge of Regulatory? Did you know that?
13 MS. HENN: Objection to form.
14 THE WITNESS: Again, I don't recall being
15 specifically aware of a hydrocodone drug abuse issue.
16 BY MR. KENNEDY:
17 Q. The next bullet:
18 (Reading) Poison control data, DAWN
19 medical examiner (ME) data and other
20 ME data indicate that hydrocodone
21 deaths are numerous, widespread and
22 increasing in number (end of reading).
23 And I want to ask you, sir, very
24 specifically, can we agree that if McKesson is
25 selling millions of dosages of hydrocodone, and

<p style="text-align: right;">Page 98</p> <p>1 making millions upon millions of dollars in doing 2 that, that they had the responsibility to know that 3 the drugs that they were selling were causing deaths, 4 widespread, and increasing in number? Didn't you 5 have the responsibility to know that? 6 MS. HENN: Objection to form. Lacks 7 foundation. Compound. 8 THE WITNESS: Our responsibility was very 9 specific. And that was to ensure that we were 10 providing controlled substance medications to 11 licensed pharmacists who were filling prescriptions 12 to licensed physicians. 13 BY MR. KENNEDY: 14 Q. Sir, we've -- we have been talking 15 about -- we've been talking about McKesson's sale of 16 two million hydrocodones in an 11-day period in 17 October of 2005. Do you remember all those questions 18 we had been going through? 19 A. Yes, I remember the questions. 20 Q. Isn't it a fact -- isn't it a fact 21 that in addition to the two million dosages in 22 October of '05, McKesson did not stop there; they 23 continued to sell massive amounts of hydrocodones 24 even after October of '05? Isn't that true? 25 MS. HENN: Objection to form.</p>	<p style="text-align: right;">Page 100</p> <p>1 1,110,000. 1,110,900, in a four-month period. Do 2 you see that? 3 A. I see that. 4 Q. Do you understand that's 31 times the 5 Florida average? 6 MS. HENN: Objection. Lacks foundation. 7 BY MR. KENNEDY: 8 Q. Do you understand that, 31 times the 9 Florida average for McKesson? 10 MS. HENN: Objection. Lacks foundation. 11 BY MR. KENNEDY: 12 Q. Do you see that? Do you agree with 13 that? 14 MS. HENN: Same objections. 15 THE WITNESS: I wouldn't agree with that or 16 disagree. I don't understand the source of the 17 numbers because it's not our information, that I'm 18 aware of, and I haven't seen this document before. 19 BY MR. KENNEDY: 20 Q. This is the DEA's -- these are the 21 DEA numbers. 22 MS. HENN: Objection. Lacks foundation. 23 BY MR. KENNEDY: 24 Q. I will ask you to assume that these 25 are the DEA numbers, and you provided -- McKesson</p>
<p style="text-align: right;">Page 99</p> <p>1 BY MR. KENNEDY: 2 Q. Do you remember that -- 3 A. I don't -- I don't know what specific 4 quantities of hydrocodone we sold, you know, after 5 that period of time. 6 (Exhibit No. 693 was marked.) 7 BY MR. KENNEDY: 8 Q. Showing you what has been marked as 9 Exhibit 693. 693, all right, which is No. -497154. 10 Go to the second page, if you would. And I 11 believe this is a document prepared by the DEA and 12 provided to us by McKesson. 13 Do you see the chart on page -155? Do you 14 see that? 15 A. Yes. 16 Q. Now, this is McKesson hydrocodone 17 sales and distributions from October 1, now, to 18 January 31, a four-month period. We've been talking 19 about just 11 days in October. 20 This is a four-month period; do you see 21 that? 22 A. Yes. 23 Q. This is in Florida, just Florida; 24 all right? 25 Look at Accumed. This four-month period,</p>	<p style="text-align: right;">Page 101</p> <p>1 provided to us this document that the DEA created. 2 All right? You can assume that to be true. 3 And at least according to the DEA, over the 4 four-month period -- after that October event of 5 two million, in this four-month period you sold 6 Accumed 1,110,900. Do you have anything in your -- 7 in your memory or documentation that would dispute 8 that number? Let me ask you that. 9 MS. HENN: Objection to form. Lacks 10 foundation. 11 THE WITNESS: I don't have any recollection 12 of this document or the numbers, and certainly 13 haven't conducted my own review or analysis. So I 14 can't support it or deny it. 15 BY MR. KENNEDY: 16 Q. During a four-month period, Avee 17 Pharmacy, you sold them 1,754,800. Do you have 18 anything to dispute the DEA's number there? 19 MS. HENN: Objection. Lacks foundation. 20 THE WITNESS: Same response, Counsel. I 21 don't -- I don't have any knowledge one way or the 22 other. 23 BY MR. KENNEDY: 24 Q. You do know that the DEA gets its 25 numbers from ARCOS; correct? The ARCOS database,</p>

<p style="text-align: right;">Page 102</p> <p>1 that's where the DEA gets its number; true?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: I know that ARCOS is one of</p> <p>4 the sources of DEA's data. But I don't know that</p> <p>5 it's exclusive.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. And tell the jury who provides the</p> <p>8 DEA with the ARCOS data on your sales. Who provides</p> <p>9 that to them?</p> <p>10 A. We submit on a monthly basis, as</p> <p>11 required by the regulation, the ARCOS data on the</p> <p>12 sales of controlled substances that are required to</p> <p>13 be reported.</p> <p>14 Q. McKesson gives them the numbers on</p> <p>15 what you're selling them; right?</p> <p>16 A. We provide the ARCOS data to DEA.</p> <p>17 Q. Bi-Wise, you sold them 384,100 in a</p> <p>18 four-month period; right? And that's about 11 times</p> <p>19 the Florida average. Do you have anything to</p> <p>20 disagree with those numbers?</p> <p>21 MS. HENN: Objection to form. Lacks</p> <p>22 foundation.</p> <p>23 THE WITNESS: Again, without understanding</p> <p>24 the source, the background of the numbers, I can't</p> <p>25 support or deny either way.</p>	<p style="text-align: right;">Page 104</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Sir, based on this table, McKesson --</p> <p>3 McKesson sold seven million hydrocodone pills to</p> <p>4 seven pharmacies in four months. Do you consider</p> <p>5 that to be consistent with the responsibility that</p> <p>6 you've told us about? Is that consistent with</p> <p>7 McKesson's responsibility?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: We sold to licensed</p> <p>10 pharmacies. I am aware we wouldn't be able to</p> <p>11 provide any controlled substances to a pharmacy that</p> <p>12 wasn't registered by the DEA.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. Let me ask you this. You keep -- you</p> <p>15 keep repeating that over and over, "We sold to</p> <p>16 licensed pharmacies."</p> <p>17 Sir, could we agree that the responsibility</p> <p>18 of McKesson went far beyond just making sure that you</p> <p>19 were selling to a licensed pharmacy?</p> <p>20 A. Our responsibility included</p> <p>21 monitoring, reporting suspicious orders to the DEA,</p> <p>22 and guarding against diversion.</p> <p>23 Q. And that was a responsibility that</p> <p>24 was far beyond just making sure that you were selling</p> <p>25 to a pharmacy with a license; is that true?</p>
<p style="text-align: right;">Page 103</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Medipharma, 1.2 million. Trelles,</p> <p>3 324,000. United Prescription, 641,000. Universal</p> <p>4 Prescriptions, 883,000. Any way to disagree with</p> <p>5 these numbers, sir?</p> <p>6 MS. HENN: Objection to form. Lacks</p> <p>7 foundation.</p> <p>8 BY MR. KENNEDY:</p> <p>9 Q. Any way?</p> <p>10 A. I can neither support or refute the</p> <p>11 numbers, Counsel, because I don't understand</p> <p>12 specifically the source.</p> <p>13 Q. Do you recall ever saying to the DEA</p> <p>14 your numbers, based upon ARCOS, that we provided you,</p> <p>15 are wrong? Do you remember that, during the course</p> <p>16 of events after -- after this date, do you remember</p> <p>17 telling the DEA your numbers are wrong?</p> <p>18 MS. HENN: Objection to form. Lacks</p> <p>19 foundation.</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. Do you remember that, ever?</p> <p>22 MS. HENN: Same objection.</p> <p>23 THE WITNESS: No, I don't recall ever having</p> <p>24 a conversation with DEA around their numbers or any</p> <p>25 of the data that they shared with us.</p>	<p style="text-align: right;">Page 105</p> <p>1 MS. HENN: Objection to form.</p> <p>2 THE WITNESS: I wouldn't say that that's</p> <p>3 accurate. I think our responsibility was very</p> <p>4 specifically spelled out in the regulations, and we</p> <p>5 adhered to those.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. And that included, number one,</p> <p>8 identifying orders of unusual size; correct?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: In the suspicious order</p> <p>11 regulation, unusual size is called out.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Right. And what we're looking at is</p> <p>14 seven million units of hydrocodone in four months.</p> <p>15 And you had the responsibility to identify orders of</p> <p>16 unusual size; did you not?</p> <p>17 MS. HENN: Objection to form. Compound.</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. Is that true?</p> <p>20 A. We -- our suspicious order reporting</p> <p>21 needed to provide and identify orders of size,</p> <p>22 quantity, and frequency.</p> <p>23 Q. Absolutely. And that's more than</p> <p>24 just making sure you're selling to a pharmacy that's</p> <p>25 got a license; right? Correct?</p>

<p style="text-align: right;">Page 106</p> <p>1 A. And report to the DEA.</p> <p>2 Q. Right. And you know not one single</p> <p>3 one of these orders of this seven million was ever</p> <p>4 reported to the DEA, not one. Do you remember that?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. Do you remember that?</p> <p>8 MS. HENN: Lacks foundation.</p> <p>9 THE WITNESS: I don't know that to be</p> <p>10 accurate either way. I don't have independent</p> <p>11 knowledge of what we did or did not report during</p> <p>12 that time frame regarding these pharmacies.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. You don't remember that that is the</p> <p>15 reason that you got fined \$13 million?</p> <p>16 MS. HENN: Objection to form. Lacks</p> <p>17 foundation.</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. You don't remember?</p> <p>20 A. I don't remember or have any</p> <p>21 independent knowledge of whether or not any of these</p> <p>22 pharmacies ever reported to DEA during that time</p> <p>23 frame.</p> <p>24 Q. All right. Sir, I wrote down some of</p> <p>25 the dates of what we have been talking about so we</p>	<p style="text-align: right;">Page 108</p> <p>1 warning; correct?</p> <p>2 Do you remember going through that?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 Mischaracterizes the document and lacks foundation.</p> <p>5 THE WITNESS: I saw the note from DEA.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. Four days later the DEA contacted</p> <p>8 McKesson again about their sales to certain Internet</p> <p>9 pharmacies; did they not? We went through that.</p> <p>10 MS. HENN: Same objections.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. Correct?</p> <p>13 A. Again, in the -- in the document that</p> <p>14 you shared, that was so documented.</p> <p>15 Q. And four months later, four months</p> <p>16 later, after a warning, after saying we're serious,</p> <p>17 after saying we're concerned, in the next four months</p> <p>18 McKesson sold seven million hydrocodones to Internet</p> <p>19 pharmacies, seven of them; right?</p> <p>20 MS. HENN: Objection to form. Lacks</p> <p>21 foundation --</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Is that what we have just been</p> <p>24 through?</p> <p>25 MS. HENN: Objection to form. Lacks</p>
<p style="text-align: right;">Page 107</p> <p>1 can put it all together here, everything we have been</p> <p>2 talking about.</p> <p>3 And the memo we had been looking at on</p> <p>4 September 1, 2005, you had a meeting with the DEA;</p> <p>5 correct?</p> <p>6 MS. HENN: Objection to form.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. That's what we talked about, correct?</p> <p>9 MS. HENN: Objection to form. Lacks</p> <p>10 foundation. Mischaracterizes testimony.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. September 1, 2005, DEA meeting at</p> <p>13 headquarters?</p> <p>14 A. McKesson participated in a meeting of</p> <p>15 September of '05, yes.</p> <p>16 Q. And at that meeting they warned you</p> <p>17 about Internet pharmacies; did they not?</p> <p>18 MS. HENN: Same objection.</p> <p>19 THE WITNESS: I wasn't at the meeting.</p> <p>20 Counsel, based on the notes that you provided, DEA</p> <p>21 advises of a concern over Internet pharmacies.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. And then one month later, right, one</p> <p>24 month later, your lawyer got a call and said that we</p> <p>25 have heard that McKesson is not serious about this</p>	<p style="text-align: right;">Page 109</p> <p>1 foundation.</p> <p>2 THE WITNESS: In the document you provided,</p> <p>3 again, I can't support or refute the numbers. That</p> <p>4 is what's indicated.</p> <p>5 BY MR. KENNEDY:</p> <p>6 Q. And you've told us that you believe,</p> <p>7 as the boss of all of regulatory, that this was</p> <p>8 consistent with your responsibility to carry out the</p> <p>9 law, to regulate, and guard against diversion; is</p> <p>10 that your position?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: As responsible for Regulatory,</p> <p>13 I feel very confident that we were executing our</p> <p>14 regulatory responsibilities as required under the</p> <p>15 CFR.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. And, sir, the very fact, the very</p> <p>18 fact that you sit here today and you tell the jury</p> <p>19 that seven million hydrocodones under these</p> <p>20 circumstances, in four months, and McKesson carrying</p> <p>21 out its responsibility, isn't that very fact the</p> <p>22 problem with McKesson? Isn't it the problem?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 Mischaracterizes the document. Lacks foundation.</p> <p>25 ///</p>

<p style="text-align: right;">Page 110</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Sir, isn't that the problem, the very</p> <p>3 fact that you, the boss of Regulatory, think that</p> <p>4 this conduct is okay? Isn't that the problem with</p> <p>5 McKesson back in '05 and thereafter?</p> <p>6 MS. HENN: Same objections.</p> <p>7 THE WITNESS: Counsel, we were very focused</p> <p>8 on our regulatory responsibilities, and we carried</p> <p>9 out those responsibilities in the very best way that</p> <p>10 we understood them in compliance with the</p> <p>11 regulations.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Sir, my question is very specific.</p> <p>14 I'm talking about what we have been talking about for</p> <p>15 the last hour. Isn't the fact that you, the head of</p> <p>16 Regulatory, believes that it was okay for McKesson to</p> <p>17 sell seven million pills to seven pharmacies in a</p> <p>18 four-month period -- isn't the fact that you, the</p> <p>19 head of pharmacy, thinks that that is okay, isn't</p> <p>20 that the problem, the underlying problem that</p> <p>21 McKesson had?</p> <p>22 MS. HENN: Objection. Mischaracterizing the</p> <p>23 document. And lacks foundation.</p> <p>24 THE WITNESS: Counsel, my testimony is that</p> <p>25 I, as the leader of our Regulatory and senior member</p>	<p style="text-align: right;">Page 112</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Sir, what we're looking at here, this</p> <p>3 massive -- this seven million pills in a four-month</p> <p>4 period in Florida, it wasn't just happening in</p> <p>5 Florida, was it? It was happening across the</p> <p>6 country; was it not?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 THE WITNESS: I don't recall any -- any</p> <p>9 specific issues and don't have knowledge of what was</p> <p>10 occurring in the balance of the country.</p> <p>11 (Exhibit No. 802 was marked.)</p> <p>12 MR. KENNEDY: Well, sir, let's -- let me</p> <p>13 show you Exhibit 686.</p> <p>14 (Exhibit No. 686 was marked.)</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. 686 does not have Bates numbers.</p> <p>17 Sir, you indicate you don't have any knowledge of</p> <p>18 McKesson -- McKesson sending massive amounts around</p> <p>19 the country of hydrocodone -- excuse me,</p> <p>20 hydrocodones. This is a Settlement Agreement. Look</p> <p>21 at that first sentence.</p> <p>22 (Reading) This is a Settlement</p> <p>23 Agreement entered into on April 30th,</p> <p>24 2008, between the United States</p> <p>25 Department of Justice, through the</p>
<p style="text-align: right;">Page 111</p> <p>1 of our company, believe that we were completing our</p> <p>2 regulatory obligations in the very best way that we</p> <p>3 understood them, and adherence to the regulation as</p> <p>4 we understood it and had been operating for many</p> <p>5 years.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. And my question to you is very</p> <p>8 specific. Isn't that the problem that you, a senior</p> <p>9 executive, thought that this was okay?</p> <p>10 MS. HENN: Objection to form. Asked and</p> <p>11 answered.</p> <p>12 THE WITNESS: I can't answer that question,</p> <p>13 Counsel. I believe very strongly in my prior</p> <p>14 testimony.</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. And, again, even more, isn't that the</p> <p>17 problem, that you, the executive, the head of</p> <p>18 Regulatory, feel very strongly that seven million</p> <p>19 pills in four months is okay? Isn't that McKesson's</p> <p>20 problem?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 Mischaracterizing the document. Lacks foundation.</p> <p>23 Asked and answered.</p> <p>24 THE WITNESS: Counsel, I -- again, I will</p> <p>25 stand by my testimony.</p>	<p style="text-align: right;">Page 113</p> <p>1 United States Attorney's Office, for</p> <p>2 the Districts of Maryland, Middle</p> <p>3 Florida, Southern Texas, Colorado,</p> <p>4 Utah, and Eastern California (end of</p> <p>5 reading).</p> <p>6 Do you see that?</p> <p>7 A. I see that.</p> <p>8 Q. And the Settlement Agreement is with</p> <p>9 McKesson Corporation; true?</p> <p>10 A. Yes.</p> <p>11 Q. You signed this document; did you</p> <p>12 not?</p> <p>13 A. Yes, I did.</p> <p>14 Q. And that's why I'm asking, why is it</p> <p>15 that you didn't have any knowledge that this was</p> <p>16 going on across the country? You signed this</p> <p>17 document; didn't you?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: I signed this document,</p> <p>20 Counsel.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. Let's go to the next page, down to</p> <p>23 No. 8 on the next page. See where it says, on No. 8,</p> <p>24 paragraph 8, "The Covered Conduct shall mean the</p> <p>25 following alleged conduct"? Do you see that?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. Yes.</p> <p>2 Q. "A: Within the District of</p> <p>3 Maryland" -- and that's not Florida; right? Can we</p> <p>4 agree that's not Florida?</p> <p>5 A. Maryland is not Florida.</p> <p>6 Q. (Reading) -- from January 2005?</p> <p>7 through October 2006,</p> <p>8 McKesson-Landover sold approximately</p> <p>9 three million dosage units of</p> <p>10 hydrocodone to New Care Pharmacy in</p> <p>11 Baltimore and failed to report these</p> <p>12 sales as suspicious orders to DEA when</p> <p>13 discovered, as required by and in</p> <p>14 violation of 21 C.F.R 1301.74(b), and</p> <p>15 21 U.S.C. 842 (a)(5) (end of reading).</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. That's 150,000 hydrocodones a month,</p> <p>19 if I did the math right. Do you see that? That</p> <p>20 would be 30 times the national average?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. The DEA national average; right? If</p> <p>24 I did my math right.</p> <p>25 MS. HENN: Objection to form.</p>	<p style="text-align: right;">Page 116</p> <p>1 right; correct?</p> <p>2 A. If you divide what that says, that</p> <p>3 would be correct for the two pharmacies.</p> <p>4 Q. And, again, if the DEA was correct,</p> <p>5 and that the national average is about 5,000 a month,</p> <p>6 what's this? About 30 times? 30 times the national</p> <p>7 average; right?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. Correct?</p> <p>11 A. Are you referring to the Texas</p> <p>12 pharmacies?</p> <p>13 Q. We're on Texas, yes, sir.</p> <p>14 A. If the math -- but, again, it would</p> <p>15 be -- there's two pharmacies involved. But your math</p> <p>16 would be correct.</p> <p>17 Q. And not one order was reported to the</p> <p>18 DEA; was it?</p> <p>19 MS. HENN: Objection to form. Lacks</p> <p>20 foundation.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. Is that right?</p> <p>23 A. I don't have any specific knowledge</p> <p>24 of what was or wasn't reported to DEA.</p> <p>25 Q. What does it state here. "Failed to</p>
<p style="text-align: right;">Page 115</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Do you see that?</p> <p>3 A. Again, if using DEA's average, which</p> <p>4 I can neither support or refute, and the dosage units</p> <p>5 here, that your math is correct.</p> <p>6 Q. That's Maryland; right? So let's</p> <p>7 go -- No. B, that's the Middle District of Florida,</p> <p>8 and that's probably what we've been talking about;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And then go to C. Now we're in the</p> <p>12 Southern District of Texas; right? And does it</p> <p>13 state:</p> <p>14 (Reading) from February to December of</p> <p>15 2007, McKesson-Conroe sold</p> <p>16 approximately 2.6 million dosage units</p> <p>17 of hydrocodone to Mercury Drive</p> <p>18 Pharmacy and Maswoswe's Alternative</p> <p>19 Pharmacy and failed to report those</p> <p>20 sales as suspicious orders to DEA when</p> <p>21 discovered (end of reading).</p> <p>22 Did I read that right?</p> <p>23 A. Yes, you read that correctly.</p> <p>24 Q. And that's over eight months. And</p> <p>25 that would be about 150,000 a month, if I did my math</p>	<p style="text-align: right;">Page 117</p> <p>1 report these sales as suspicious orders to the DEA";</p> <p>2 does it say that?</p> <p>3 A. That's what it says. That was the</p> <p>4 allegation.</p> <p>5 Q. Did you sign this?</p> <p>6 A. I did.</p> <p>7 Q. Let's go to D on the next page. This</p> <p>8 is Colorado now. It states:</p> <p>9 (Reading) With respect to Colorado,</p> <p>10 from September 2005 through November</p> <p>11 of 2007, McKesson-Aurora sold large</p> <p>12 quantities of hydrocodone to three</p> <p>13 Colorado pharmacies (end of reading).</p> <p>14 Is that what it states with respect to</p> <p>15 Colorado?</p> <p>16 A. That is correct.</p> <p>17 Q. E, now we're in Utah:</p> <p>18 (Reading) From January 2005 through</p> <p>19 October 2007, McKesson-Salt Lake City</p> <p>20 sold approximately 825,000 dosage</p> <p>21 units of hydrocodone, oxycodone,</p> <p>22 Fentanyl and Methadone to the</p> <p>23 Blackfeet Clinic in Browning, Montana</p> <p>24 (end of reading).</p> <p>25 Does it state that?</p>

<p style="text-align: right;">Page 118</p> <p>1 A. Yes, that's what it states.</p> <p>2 Q. And, again, failed to report any of</p> <p>3 these to the DEA as suspicious orders; true?</p> <p>4 MS. HENN: Objection to form. Lacks</p> <p>5 foundation.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. Correct?</p> <p>8 MS. HENN: Same objections.</p> <p>9 THE WITNESS: What is written is that</p> <p>10 allegation.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. You signed the document; right?</p> <p>13 A. I signed the agreement.</p> <p>14 Q. And, again, just to backtrack a</p> <p>15 second. The responsibility of McKesson, with respect</p> <p>16 to suspicious orders, included identifying orders of</p> <p>17 unusual size; true? Is that true?</p> <p>18 A. As part of the regulation, size is a</p> <p>19 factor.</p> <p>20 Q. Part of your responsibility, is to</p> <p>21 identify unusual orders of size; correct?</p> <p>22 MS. HENN: Objection to form.</p> <p>23 THE WITNESS: We were responsible for</p> <p>24 reporting suspicious orders, which included unusual</p> <p>25 size.</p>	<p style="text-align: right;">Page 120</p> <p>1 prepared. He is here to answer your questions and</p> <p>2 has been doing that in good faith, and I suggest you</p> <p>3 move on and ask the question.</p> <p>4 MR. KENNEDY: Absolutely. Because you know</p> <p>5 I have no right to know how you have prepared the</p> <p>6 witness, you know --</p> <p>7 MS. HENN: Counsel --</p> <p>8 MR. KENNEDY: -- you can get away with</p> <p>9 instructing him to repeat my question and every</p> <p>10 answer to waste our seven hours.</p> <p>11 MS. HENN: Counsel, you have no basis and no</p> <p>12 right to make these allegations and waste time in the</p> <p>13 deposition.</p> <p>14 Mr. Walker has come from retirement to spend</p> <p>15 time answering your questions, and he's doing a</p> <p>16 good-faith job of that. And I suggest we move on</p> <p>17 from this tantrum and --</p> <p>18 MR. KENNEDY: It's not a tantrum.</p> <p>19 MS. HENN: -- pay attention to the job at</p> <p>20 hand.</p> <p>21 If you would like to call the Special Master</p> <p>22 and have him review this transcript, I think he will</p> <p>23 agree that the witness is doing a fine job of</p> <p>24 responding to your argumentative questions, and will</p> <p>25 continue to do that throughout the day.</p>
<p style="text-align: right;">Page 119</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Sir, I asked you a "yes" or "no"</p> <p>3 question. And we have a limited amount of time here.</p> <p>4 And I know you've been instructed to repeat my</p> <p>5 question in your answer to take up time. But if I</p> <p>6 asked you a "yes" or "no" question, I want you to</p> <p>7 answer it "yes" or "no" so we can move forward with</p> <p>8 this and not waste time having you repeat my question</p> <p>9 in every answer, as you've been instructed to.</p> <p>10 All right?</p> <p>11 MS. HENN: Counsel, I don't appreciate the</p> <p>12 kind of --</p> <p>13 MR. KENNEDY: But it's the truth.</p> <p>14 MS. HENN: -- allegation you're making.</p> <p>15 MR. KENNEDY: It's the truth, and you know</p> <p>16 that.</p> <p>17 MS. HENN: You don't know that. And you're</p> <p>18 just arguing with the witness and wasting time.</p> <p>19 MR. KENNEDY: Are you going to deny that</p> <p>20 that's the truth?</p> <p>21 MS. HENN: I am --</p> <p>22 MR. KENNEDY: Are you going to deny that</p> <p>23 that is the truth of how he has been prepared?</p> <p>24 MS. HENN: Counsel, you know you have no</p> <p>25 right to know anything about how he has been</p>	<p style="text-align: right;">Page 121</p> <p>1 MR. KENNEDY: Nobody answers questions in</p> <p>2 that fashion unless they are told to do so. I</p> <p>3 don't -- I don't blame him one bit. He's a gentleman</p> <p>4 coming here from his retirement and having to answer</p> <p>5 these questions because of the company that he worked</p> <p>6 for and what they did to this country.</p> <p>7 What I am objecting to is the way you have</p> <p>8 instructed this witness to waste our time.</p> <p>9 MS. HENN: Counsel --</p> <p>10 MR. KENNEDY: That's what I am objecting to.</p> <p>11 So let's be clear.</p> <p>12 MS. HENN: Are you done with your speech now</p> <p>13 so we can move on?</p> <p>14 MR. KENNEDY: I am all done, so let's move</p> <p>15 on.</p> <p>16 MS. HENN: Thank you.</p> <p>17 MR. KENNEDY: I hope, I just hope that he</p> <p>18 ceases and stops what he is doing.</p> <p>19 MS. HENN: He's not doing anything of the</p> <p>20 sort. And I suggest we focus on the task at hand.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. Sir, let's now go to California, if</p> <p>23 we could. Does this Settlement Agreement, in</p> <p>24 California state, that:</p> <p>25 (Reading) From October of '07 through</p>

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1 June of '07, McKesson-West Sacramento
 2 suffered the theft of significant loss
 3 of controlled substances on 28
 4 separate occasions and failed to
 5 timely submit required theft and loss
 6 reports to the DEA (end of reading)?
 7 Is that what it states here? Now, this is
 8 California.
 9 A. That's what it states.
 10 MR. KENNEDY: I want you to look at
 11 Exhibit 688.
 12 I'm sorry, 687.
 13 (Exhibit No. 687 was marked.)
 14 MR. KENNEDY: 687 Exhibit starts with Bates
 15 -00574724 and ends with -4744.
 16 Q. Mr. Walker, have you seen this
 17 document before?
 18 A. Yes, I have.
 19 Q. And this would relate to a meeting of
 20 "Directors of Regulatory"? Is that what it says?
 21 A. Yes.
 22 Q. This would have been in Dallas, March
 23 5-6, 2008; true?
 24 A. Yes.
 25 Q. Do you remember who was present at

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1 this meeting?
 2 A. I don't remember specifically all the
 3 participants. I know that our newly-hired Director
 4 of Regulatory Affairs and my Regulatory staff was
 5 there. But I don't know who else might have been
 6 there.
 7 Q. And the purpose of the meeting was
 8 what?
 9 A. As I recall, the purpose of the
 10 meeting was to review with the Regulatory staff and
 11 then expanded the overview of the Memorandum of
 12 Agreement that we were moving forward with. We
 13 hadn't signed it yet, but we were very close. So we
 14 had the components.
 15 Q. That was the Memorandum of Agreement
 16 that we just talked about with the DEA, with the
 17 Department of Justice?
 18 A. Yes, the same memorandum.
 19 Q. And it was signed by you, and it was
 20 also signed by Mr. Hammergren, that agreement with
 21 the DEA; was it not?
 22 A. I'd -- I'd have to look.
 23 Q. Let me ask you this. Where -- in
 24 relation to the company in 2008, where were you with
 25 respect to -- Mr. Hammergren was the CEO?

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1 A. Yes, he's the CEO.
 2 Q. Where did you sit in relation to the
 3 CEO in your responsibility as with the VP of
 4 Distribution and Operations? Where did you sit in
 5 relation to Mr. Hammergren?
 6 A. Probably best described as not very
 7 close. But it was several levels, you know, down in
 8 the organization.
 9 Q. Would you interact with him? You
 10 were both in San Francisco; right?
 11 A. There were occasions that I
 12 interacted with Mr. Hammergren.
 13 Q. What committees did you sit on? I
 14 know that -- we know your title. But were you a part
 15 of any management committees at McKesson? And I'm
 16 talking about the '08 period.
 17 A. Yes. So in that time frame in my
 18 role, I was part of the -- I will use your term --
 19 management committee that oversaw -- oversaw the
 20 pharmaceutical business.
 21 Q. Okay. So the management committee
 22 that oversaw the pharmaceutical business. And a
 23 significant part of McKesson's business was the
 24 pharmaceutical business, I assume?
 25 A. Yes.

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1 Q. And when -- who all was on the
 2 management committee of pharmaceuticals?
 3 MS. HENN: Objection to form.
 4 BY MR. KENNEDY:
 5 Q. And, again, we're on the 2008 period.
 6 A. At a -- at a high level, the
 7 president of U.S. Pharma and then individuals that
 8 had leadership positions in sales, inventory,
 9 vendor-manufacturer relationships, HR, and marketing,
 10 I.T. I mean, sort of --
 11 Q. Ten members? Twenty members?
 12 A. My best recollection is about ten.
 13 Q. And their responsibility was -- was
 14 what this management committee of U.S. -- this is
 15 U.S. pharmaceuticals?
 16 A. Yes. U.S. pharmaceuticals.
 17 Q. And what was the responsibility of
 18 this management committee that you sat on?
 19 A. Again, at a high level, it was really
 20 to collaborate to provide overall guidance and
 21 direction. And there was, you know, the normal
 22 planning/budgeting processes that we went through.
 23 Q. All right. Let's -- let's go back to
 24 this meeting, then, that was -- that was held in 2008
 25 with the Directors of Regulatory.

<p style="text-align: right;">Page 126</p> <p>1 If you can go to page -- the Bates in the 2 bottom of -4733. Did you run this meeting? 3 A. Yes, I did. 4 Q. Did you prepare these slide 5 presentations? 6 A. Looking at it, I don't specifically 7 put in the slide presentation. But it was consistent 8 with one that I would do. 9 Q. All right. Well, let's look, then, 10 at this page of the 2008 slide presentation. And 11 this is talking about the 2008 Settlement Agreement 12 that is reached with the Department of Justice and 13 the DEA; correct? 14 A. Correct. 15 Q. And this is in relation to what we 16 have been talking about for the last hour; true? 17 A. Yes. 18 Q. And does this slide presentation 19 state that -- the first -- the first bullet, "Six 20 different McKesson facilities involved"; right? 21 A. Yes. 22 Q. And we went over those six different 23 facilities, I think. Florida, Maryland, Texas, Utah; 24 correct? Those are the ones we went through? 25 A. That's correct.</p>	<p style="text-align: right;">Page 128</p> <p>1 and potentially discussions with DEA or counsel 2 through DEA. 3 Q. My question isn't whether it was part 4 of a draft, where it came from. My question is real 5 simple: Would you put here in this presentation 6 "4,600 estimated violations by McKesson" if it was 7 not true? 8 MS. HENN: Objection to form. 9 Mischaracterizes the document. 10 THE WITNESS: Counsel, as I stated, what I 11 would have put in is an accurate representation of 12 DEA's allegations. 13 BY MR. KENNEDY: 14 Q. Bullet point 4, does it say: 15 (Reading) Seven Tampa area pharmacies 16 purchased almost 2.5 million 17 hydrocodone tablets from Lakeland in 18 October of '05 (end of reading)? 19 Does it state that? 20 A. Yes, it does. 21 Q. The next bullet, does it state: 22 (Reading) Between October of '05 and 23 January of '06, the Tampa area 24 pharmacies purchased 6.6 million 25 tablets of hydrocodone (end of</p>
<p style="text-align: right;">Page 127</p> <p>1 Q. The next bullet says: 2 (Reading) An estimated more than 4,600 3 violations, potential fine to exceed 4 \$46 million (end of reading). 5 Is that accurate, 4,600 violations? This is 6 in your PowerPoint or at least one presented at your 7 meeting. Was that accurate? 8 MS. HENN: Objection to form. 9 THE WITNESS: I don't recall specifically 10 whether it is accurate or -- I couldn't testify 11 whether it was accurate. 12 What I can say is that we -- I was pulling 13 information from the agreement draft, which were the 14 DEA's allegations, you know, that led up to the 15 agreement. 16 BY MR. KENNEDY: 17 Q. Would you put this in a PowerPoint to 18 the Regulatory Department, the new members of the 19 Regulatory Department, if it wasn't accurate? 20 MS. HENN: Objection to form. 21 BY MR. KENNEDY: 22 Q. Would you do that? 23 A. Again, Counsel, my recollection, my 24 best recollection, is that this was based on 25 information that was contained in the -- in the draft</p>	<p style="text-align: right;">Page 129</p> <p>1 reading)? 2 Does it state that? 3 A. Yes, it does. 4 Q. Would you put that in there if it 5 wasn't true and accurate? 6 MS. HENN: Objection to form. 7 Mischaracterizes the document. 8 THE WITNESS: Counsel, I'm trying to answer 9 that. Very specifically I recall utilizing the draft 10 of the memorandum and DEA's allegations and repeating 11 them in this document. 12 BY MR. KENNEDY: 13 Q. Well, but, sir, these are more than 14 allegations; right? You had been at this with the 15 DEA since 2006. If their allegations as to how much 16 you were sold were wrong, it certainly would be known 17 by 2008; would it not? 18 MS. HENN: Objection to form. 19 THE WITNESS: I don't recall that we had any 20 discussions with DEA or validation of the numbers. 21 BY MR. KENNEDY: 22 Q. It next states: 23 (Reading) Landover DC sold millions of 24 dosage forms to one pharmacy that was 25 later indicted on criminal charges</p>

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1 (end of reading).
2 Do you remember doing that, that McKesson
3 actually did that? Do you recall that?
4 A. I don't have any -- no, I really
5 don't have any specific recollection of that.
6 Q. And does it state, Conroe DC -- that
7 would be Texas, Conroe?
8 A. Yes.
9 Q. (Reading) Conroe DC sold millions
10 Of tablets to two pharmacies in the
11 first nine months of 2007 (end of
12 reading).
13 One pharmacy. Would you tell that and put
14 that in the presentation if that was not true?
15 MS. HENN: Objection. Mischaracterizes the
16 document.
17 THE WITNESS: Just to correct. Counsel, as
18 in the allegation, it was two pharmacies in Texas.
19 But, again, I simply was repeating and
20 putting in here to share with the team the
21 allegations that were leading to the Memorandum of
22 Agreement.
23 BY MR. KENNEDY:
24 Q. Sir, at this point in time, these
25 allegations, which are 2004, 2005, 2006, at that

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1 point in time were the suspicious order monitoring
2 policies of McKesson national?
3 A. Yes. It was a single system. So the
4 answer is, yes.
5 Q. So the policies and the procedures
6 that led at least to what you considered to be the
7 allegations of these extraordinary sales, those
8 policies and procedures were the same in Maryland,
9 Ohio, West Virginia, Utah, Florida; would that be
10 true?
11 A. Yes.
12 Q. And as the person in charge, sitting
13 on the top of this, did you make every effort to make
14 sure that the implementation of the policies and
15 procedures relating to suspicious order monitoring,
16 that they were being implemented uniformly across the
17 country?
18 MS. HENN: Objection to form.
19 THE WITNESS: Yes, we had a system in place
20 that was reporting regularly to DEA suspicious
21 orders.
22 BY MR. KENNEDY:
23 Q. So the answer would be, yes, you, as
24 the boss, made an effort to make sure that your
25 policies with respect to suspicious orders were being

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1 implemented uniformly across the country; true?
2 A. Yes.
3 Q. You didn't want somebody doing
4 something different in California than they were
5 doing in Maryland; did you?
6 A. The system was one system. So the
7 uniform reporting and report generation was the same
8 across the country.
9 Q. And would I be correct that you had
10 meetings amongst the Directors of Regulatory Affairs
11 from different regions, you had meetings and calls to
12 make sure that the policies with respect to
13 suspicious order monitoring were being implemented
14 and used by them uniformly; true?
15 MS. HENN: Objection to form. Lacks
16 foundation.
17 THE WITNESS: Can you clarify the time frame
18 you're referring to.
19 BY MR. KENNEDY:
20 Q. Again, let's -- the entire time that
21 you were the head of -- excuse me. You were the head
22 of Regulatory. You would have meetings and
23 conference calls in an attempt to make sure that your
24 policies with respect to suspicious order monitoring
25 were being implemented uniformly across the country;

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1 right?
2 A. Generally I would answer that
3 question, yes, Counsel. The reason I asked you the
4 question about the time frame is at this point this
5 was the initial meeting that I had with newly-hired
6 directors. So prior to that meeting, they would not
7 have been involved in any of the suspicious orders.
8 So I want to be accurate in my response to you.
9 Q. Okay. But from '08 forward, while
10 you were in charge, again, you would have meetings,
11 you would have memos, you would have calls in an
12 attempt to make sure that your policies were being
13 implemented uniformly across the country; true?
14 MS. HENN: Objection to form. Compound.
15 Lacks foundation.
16 THE WITNESS: So subsequent to the 2008
17 agreement with the regulatory team, we had regular
18 conference calls, regular discussions to ensure that
19 we were executing our regulatory responsibilities
20 uniformly across the country; so yes.
21 BY MR. KENNEDY:
22 Q. You don't want Mr. Oriente in the
23 East doing something different from Mr. McDonald in
24 the West, doing something different than Mr. Gustin
25 in the Midwest; true?

<p style="text-align: right;">Page 134</p> <p>1 A. Generally that would be accurate.</p> <p>2 MS. HENN: Counsel, we have been going about</p> <p>3 an hour and ten minutes. Take another break.</p> <p>4 MR. KENNEDY: I about to switch to a new</p> <p>5 topic. That's good.</p> <p>6 THE VIDEOGRAPHER: We are going off the</p> <p>7 record. The time is 11:31 a.m.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: We are back on the</p> <p>10 record. The time is 11:49 a.m.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. All right. Mr. Walker, it's still</p> <p>13 Eric Kennedy after our break. I know you might be</p> <p>14 disappointed, but it's still me.</p> <p>15 I'm going to switch gears. I want to talk</p> <p>16 about the 2008 CSMP, the Controlled Substances</p> <p>17 Monitoring Program. You remember that program?</p> <p>18 A. Yes.</p> <p>19 Q. That was a program that McKesson</p> <p>20 developed and put into place in 2008; is that true?</p> <p>21 A. Yes, that is correct.</p> <p>22 Q. And that program was put into place</p> <p>23 pursuant to the agreement that you entered into with</p> <p>24 the DEA and the DOJ in 2008; is that accurate?</p> <p>25 A. As part of the -- our overall</p>	<p style="text-align: right;">Page 136</p> <p>1 all right?</p> <p>2 A. That would be fine.</p> <p>3 (Exhibit No. 672 was marked.)</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. This is the McKesson's 2008</p> <p>6 Controlled Substance Monitoring Program; is it not?</p> <p>7 A. What this document is, is a -- the</p> <p>8 Operations Manual entry and documentation of how to</p> <p>9 execute against the Controlled Substance Monitoring</p> <p>10 Program. That's probably the best way to describe</p> <p>11 it.</p> <p>12 Q. Was there any document that McKesson</p> <p>13 has that is more comprehensive and detailed with</p> <p>14 respect to your suspicious order monitoring system</p> <p>15 than this document from the period of 2008 to, let's</p> <p>16 say, 2014? Any document other than this that is more</p> <p>17 comprehensive?</p> <p>18 A. Probably this would be the most</p> <p>19 comprehensive document.</p> <p>20 MS. HENN: Counsel, just to clarify the</p> <p>21 record. You had referred to this as the 2008</p> <p>22 program, but I see it as a 2013 version. I just want</p> <p>23 to make sure the record is clear on that.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. Okay. This is the revised version</p>
<p style="text-align: right;">Page 135</p> <p>1 discussions with DEA, we developed -- ultimately</p> <p>2 developed the Controlled Substances Monitoring</p> <p>3 Program, yes.</p> <p>4 Q. The basis for that monitoring</p> <p>5 program, the 2008 monitoring -- the basis was -- or</p> <p>6 the basis was the creation of a threshold system;</p> <p>7 true?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: We -- I wouldn't describe it</p> <p>10 as the -- as the basis. There were a number of</p> <p>11 different pieces to the monitoring. Our Controlled</p> <p>12 Substances Monitoring Program thresholds were a</p> <p>13 component of that, that we had created in -- prior to</p> <p>14 the CSMP.</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. Well, you're talking about the</p> <p>17 Lifestyle Program that was in existence for about ten</p> <p>18 months in '07; correct?</p> <p>19 A. I don't remember exactly how many</p> <p>20 months we were in existence. But it was in '07 and</p> <p>21 prior to CSMP.</p> <p>22 Q. Let me -- let me show you</p> <p>23 Exhibit 672. And if you keep this exhibit in front</p> <p>24 of you even after this series of questions, because</p> <p>25 we're going to refer back to this quite a bit,</p>	<p style="text-align: right;">Page 137</p> <p>1 that comes into play in 2008; correct? The original</p> <p>2 version is 2008?</p> <p>3 A. Just a moment, Counsel.</p> <p>4 MR. KENNEDY: I was -- this is when it's</p> <p>5 printed, 2013. When it's printed.</p> <p>6 MS. HENN: If you look on one of the last</p> <p>7 pages, it will show you the revisions history.</p> <p>8 MR. KENNEDY: All right.</p> <p>9 MS. HENN: And the last revision I see is</p> <p>10 from 11-29-2013.</p> <p>11 MR. KENNEDY: All right.</p> <p>12 MS. HENN: Sorry. March 20th, 2013.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. And this program came into place, as</p> <p>15 I said before, in 2008; did it not?</p> <p>16 A. That is correct.</p> <p>17 Q. And it was revised various times, as</p> <p>18 we have seen, up through '13; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And if I make reference to something</p> <p>21 here in my questioning that wasn't in existence in</p> <p>22 2008, you will let me know; all right?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: I will let you know.</p> <p>25 ///</p>

<p style="text-align: right;">Page 138</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. All right. So this is the program</p> <p>3 that comes into place, the Controlled Substances</p> <p>4 Monitoring Program, in 2008; would that be correct?</p> <p>5 A. Yes. This is the Controlled</p> <p>6 Substance Monitoring Program overview that we would</p> <p>7 put in our Operations Manual.</p> <p>8 Q. And we were talking about this</p> <p>9 threshold system. And do you see where it says,</p> <p>10 "Purpose"?</p> <p>11 A. Yes.</p> <p>12 Q. And the second bullet point down</p> <p>13 says, "Set and maintain customer's thresholds for all</p> <p>14 controlled substances"; is that right?</p> <p>15 A. That is correct.</p> <p>16 Q. And then it says, "Make informed</p> <p>17 decisions based upon established threshold</p> <p>18 information"; correct?</p> <p>19 A. Yes.</p> <p>20 Q. So the thresholds were an important</p> <p>21 part of this monitoring program; true?</p> <p>22 A. Yes.</p> <p>23 Q. In fact, when -- when McKesson signed</p> <p>24 its agreement with the DEA in 2008, McKesson agreed,</p> <p>25 as part of their settlement, that they would create a</p>	<p style="text-align: right;">Page 140</p> <p>1 to with the Department of Justice and DEA; right?</p> <p>2 Does it state:</p> <p>3 (Reading) McKesson agrees to maintain</p> <p>4 a compliance program designed to</p> <p>5 detect and prevent diversion of</p> <p>6 controlled substances as required</p> <p>7 under the CSA and applicable DEA</p> <p>8 regulations. This program shall</p> <p>9 include procedures to review orders</p> <p>10 for controlled substances. Orders</p> <p>11 that exceed established thresholds and</p> <p>12 criteria will be reviewed by a</p> <p>13 McKesson employee (end of reading).</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. So the agreement with the DEA</p> <p>17 mentions thresholds; correct?</p> <p>18 A. Yes.</p> <p>19 Q. And, in fact, the program that you</p> <p>20 established in 2008, your monitoring program in 2008,</p> <p>21 under "Purpose," that we just read, said that you</p> <p>22 will set and maintain thresholds; correct? We just</p> <p>23 read that.</p> <p>24 A. Yes.</p> <p>25 Q. And it states that you're going to</p>
<p style="text-align: right;">Page 139</p> <p>1 monitoring program with thresholds? Didn't they</p> <p>2 agree to that with the DEA?</p> <p>3 A. I'd have to refer to the specific</p> <p>4 language in the agreement.</p> <p>5 MR. KENNEDY: We will take a look.</p> <p>6 (Exhibit No. 755 was marked.)</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. Showing you Exhibit 755, Bates</p> <p>9 -409289 to -299. Is this the Settlement and Release</p> <p>10 Agreement and Administrative Memorandum and Agreement</p> <p>11 between McKesson and the Department of Justice and</p> <p>12 the DEA?</p> <p>13 A. I understand this to be that, yes.</p> <p>14 Q. And if you will go to Attachment 6,</p> <p>15 or Bates No. -298 down at the bottom. Do you see --</p> <p>16 under the -291, is what we're looking for.</p> <p>17 And, again, you were a signatory on this</p> <p>18 agreement? Thank you. Is that correct?</p> <p>19 A. Yes, I was.</p> <p>20 Q. And -291, on Bates -291, if you will</p> <p>21 go to that. And do you see the section, "Obligations</p> <p>22 of McKesson"?</p> <p>23 You might want to look at the first four</p> <p>24 lines. "Obligations of McKesson." And these are the</p> <p>25 obligations under the agreement that McKesson agreed</p>	<p style="text-align: right;">Page 141</p> <p>1 make informed decisions at McKesson based upon these</p> <p>2 established thresholds; true? That's what your</p> <p>3 program states?</p> <p>4 MS. HENN: You're referring to Exhibit 672?</p> <p>5 MR. KENNEDY: Yeah, I'm talking about the</p> <p>6 program. We're not talking about the --</p> <p>7 MS. HENN: It's a different exhibit.</p> <p>8 THE WITNESS: Okay. Okay. Can you</p> <p>9 repeat --</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. Yes, my question is --</p> <p>12 A. I'm sorry. I was still --</p> <p>13 Q. -- your agreement with the DEA talked</p> <p>14 about thresholds; true?</p> <p>15 A. Correct.</p> <p>16 Q. And the program you actually</p> <p>17 established in '08 was consistent with that</p> <p>18 agreement? Because what we just went through, when</p> <p>19 we look at your program under "Purpose," it says</p> <p>20 you're going to set and maintain thresholds; right?</p> <p>21 A. Yes.</p> <p>22 Q. And that you're going to make</p> <p>23 informed decisions based upon the established</p> <p>24 threshold information; true? That's what your</p> <p>25 program put together?</p>

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1 A. Yes.

2 Q. Now, so each customer of McKesson --

3 pursuant to your 2008 monitoring policy, each

4 customer for each family of a controlled substance

5 would have an established threshold; true?

6 A. That's correct.

7 Q. And that was a monthly threshold;

8 right?

9 A. Calculated monthly.

10 Q. So a particular pharmacy would have a

11 monthly threshold, for example, for hydrocodones;

12 right?

13 A. Yes.

14 Q. They would have a monthly threshold

15 for oxycodones; correct?

16 A. Yes.

17 Q. And if they were to exceed that

18 threshold in any month, that would trigger an

19 investigation under your monitoring policies;

20 correct?

21 A. It would do two things. One, the

22 order would be blocked, and then the -- which would

23 trigger additional due diligence to determine why the

24 threshold was exceeded.

25 Q. And each customer, though, each

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1 customer could request an increase in their threshold

2 for a particular opioid or controlled substance;

3 could they not?

4 A. The program was designed so that

5 customers could request additional controlled

6 substances of any -- of the controlled substances

7 above their threshold.

8 Q. All right. And McKesson -- if we

9 look at this program and how it's divided up, there

10 were basically two different groups of customers.

11 One, the big chain pharmacies, the RNAs, the regional

12 national accounts; correct?

13 A. That's one large customer group.

14 Q. And the other major customer group

15 that's defined in your monitoring program were the

16 ISMCs, or the independent small, medium chains;

17 correct?

18 A. That was also included. But that

19 wasn't the totality of every registrant that we

20 provided controlled substance to. So the two groups

21 that you mentioned in addition to that, would be what

22 we called our hospital or MHS group. So these were

23 hospitals, institutions, surgery centers. And then

24 probably the fourth big category was the federal

25 government.

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1 Q. All right. I'm going to talk about

2 the two. I want to talk about the big chain

3 pharmacies, the RNAs; all right? And I want to talk

4 about the smaller chains, the independents and the

5 smalls; all right?

6 A. Yes.

7 Q. First, in talking about ISMCs. The

8 independent small, medium chains, let's talk about

9 them. They -- again, they would request -- like

10 other customers, they could request an increase in

11 their thresholds under your policies; right?

12 A. Yes, they could.

13 Q. The request, with respect to the

14 intermediate -- or excuse me, the independent and

15 smaller pharmacy groups, that request for an increase

16 in the threshold would come directly from the

17 pharmacy; would that be true?

18 MS. HENN: Objection to form.

19 THE WITNESS: Generally, I would say that

20 that was true.

21 BY MR. KENNEDY:

22 Q. So if there was a pharmacy on Main

23 Street in Cleveland, Ohio, that specific pharmacy

24 would contact McKesson and say, "We want to increase

25 our threshold"? That's how it basically worked with

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1 the independents and the small -- small chains?

2 MS. HENN: Objection to form.

3 THE WITNESS: Basically, that would be the

4 process.

5 BY MR. KENNEDY:

6 Q. And then that specific pharmacy, say

7 the Main Street pharmacy, they would provide

8 information and documentation to McKesson to document

9 or provide a basis for the increase in the threshold;

10 is that how it worked?

11 A. Yes, the request --

12 Q. And then the Director of Regulatory

13 Affairs would evaluate the information and make a

14 determination as to whether or not an increase in a

15 particular drug threshold was appropriate? That's

16 how it worked?

17 A. All threshold increases were reviewed

18 by the Director of Regulatory Affairs, or DRAs, and

19 they were the sole responsible party to make any

20 increases.

21 Q. Now, these independent small, medium

22 pharmacies were required to submit three months of

23 their dispensing data in order to get approval for a

24 threshold increase? That was the policy?

25 MS. HENN: Objection to form.

<p style="text-align: right;">Page 146</p> <p>1 THE WITNESS: I don't believe that that is</p> <p>2 accurate.</p> <p>3 (Exhibit No. 676 was marked.)</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. Let me show you Exhibit -- you</p> <p>6 were -- you don't think that's accurate, but you</p> <p>7 were -- you were the boss at this point in time in</p> <p>8 '08; correct?</p> <p>9 A. Yes.</p> <p>10 Q. I'm going to show you Exhibit 676.</p> <p>11 And that's Bates -542108 to -110.</p> <p>12 This is an email from Tom McDonald. Do you</p> <p>13 see that? The first page.</p> <p>14 A. Yes.</p> <p>15 Q. And who was Tom McDonald in this time</p> <p>16 period of 12 -- or excuse me, 2012? Who was he?</p> <p>17 A. Tom McDonald was the Director of</p> <p>18 Regulatory Affairs for the Western part of the</p> <p>19 United States.</p> <p>20 Q. And so he was, what, one of four</p> <p>21 directors; true? Or one of five at that point?</p> <p>22 A. I don't recall specifically whether</p> <p>23 we had four or six at the time. But one of four or</p> <p>24 six.</p> <p>25 Q. And he's sending an email to an</p>	<p style="text-align: right;">Page 148</p> <p>1 (Witness reviewing document.)</p> <p>2 A. Okay.</p> <p>3 Q. Look at the paragraph. This is</p> <p>4 Mr. McDonald. You're copied on this. The paragraph</p> <p>5 that starts, "Additionally."</p> <p>6 He states:</p> <p>7 (Reading) Additionally, dispensing</p> <p>8 data is an integral part of</p> <p>9 understanding a customer's business</p> <p>10 for those accounts requiring higher</p> <p>11 thresholds (end of reading).</p> <p>12 Would you agree with that? Dispensing data</p> <p>13 is an integral part of understanding a customer's</p> <p>14 business; do you agree to that?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: I think it would be more</p> <p>17 accurate to say that at the time, as we evolved the</p> <p>18 program and gained knowledge around the tools that</p> <p>19 were available to us, dispensing data was one of the</p> <p>20 items, and just one of them, that we would use to</p> <p>21 help us make a determination of customer thresholds</p> <p>22 and increase requests or establishment.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. So you disagree with Mr. McDonald's</p> <p>25 statement, that dispensing data is an integral part</p>
<p style="text-align: right;">Page 147</p> <p>1 extraordinarily large group of people. Can you --</p> <p>2 are you able to kind of look through that and say</p> <p>3 this is -- who this group is?</p> <p>4 A. Based on the names here, this is a</p> <p>5 combination of our sales and operations teams in the</p> <p>6 West Region.</p> <p>7 Q. And you're copied on this; right?</p> <p>8 Donald Walker, CC.</p> <p>9 A. Yes, I am.</p> <p>10 Q. So you would have gotten this; right?</p> <p>11 A. Yes.</p> <p>12 Q. Subject, "Ongoing due diligence, new</p> <p>13 questionnaires and dispensing data." Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. It says high -- importance is high;</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. Look to the next page, if you would,</p> <p>20 -109, all the way toward the bottom, the paragraph</p> <p>21 that starts with, "Additionally."</p> <p>22 A. Can I have a moment just to review</p> <p>23 the rest of the document?</p> <p>24 Q. Sure.</p> <p>25 A. I'm not --</p>	<p style="text-align: right;">Page 149</p> <p>1 of understanding a customer's business? You disagree</p> <p>2 with that?</p> <p>3 MS. HENN: Objection to form. Asked and</p> <p>4 answered.</p> <p>5 THE WITNESS: I didn't say I disagreed with</p> <p>6 it. What I said was it was a piece, and one of the</p> <p>7 pieces of understanding.</p> <p>8 BY MR. KENNEDY:</p> <p>9 Q. And tell the jury, dispensing data</p> <p>10 from a pharmacy, what is that?</p> <p>11 A. The data that a pharmacy may or may</p> <p>12 not provide was data around the quantities of a given</p> <p>13 pharmaceutical or medicine that they would dispense.</p> <p>14 So it was a summary document.</p> <p>15 Q. So dispensing data is going to tell</p> <p>16 McKesson how much the CVS store on Main Street, how</p> <p>17 much Oxycontin they are selling; right? That's what</p> <p>18 it would tell McKesson; correct?</p> <p>19 A. I can't answer that accurately,</p> <p>20 Counsel, because your example of a CVS store would</p> <p>21 not be an example of that.</p> <p>22 Q. All right. Okay. Take CVS out.</p> <p>23 A. I'm trying to answer you accurately.</p> <p>24 Q. Let's talk about an independent</p> <p>25 pharmacy on Main Street. They provide you with</p>

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1 dispensing data. It's going to tell McKesson how
 2 much Oxycontin that they are selling, actually
 3 dispensing, filling prescriptions and dispensing;
 4 that's what dispensing data is?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: Dispensing data should
 7 represent that, yes.
 8 BY MR. KENNEDY:
 9 Q. So Mr. McDonald, head of the Western
 10 Region, in this email he says:
 11 (Reading) Additionally, dispensing
 12 data is an integral part of
 13 understanding a customer's business
 14 for those accounts requiring higher
 15 thresholds. Bullet 1: Dispensing
 16 data is not required for all new
 17 accounts. Bullet 2: It is required
 18 if the new account is requesting more
 19 than the minimum stated in the
 20 questionnaire (end of reading).
 21 Do you agree with that, it's required for
 22 that?
 23 MS. HENN: Objection to form.
 24 BY MR. KENNEDY:
 25 Q. So if you have got a threshold higher

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1 than the minimum amount, dispensing data is required;
 2 do you agree with that statement by Mr. McDonald?
 3 MS. HENN: Objection to form.
 4 THE WITNESS: First, I don't recall
 5 specifically, you know, reviewing or remembering any
 6 details of this -- of this memo.
 7 What I would best answer that question, is
 8 that this is what Mr. McDonald was requesting from
 9 his field sales team to support his decision base for
 10 making increases in the Western Region.
 11 BY MR. KENNEDY:
 12 Q. I understand. We know that to be
 13 true, because we're reading the document. I'm asking
 14 about your opinion. You were the boss. You were
 15 above Mr. McDonald. You were the one that was in
 16 charge of the implementation of the policies and
 17 procedures at McKesson.
 18 Do you agree, Mr. Walker, as being the boss?
 19 Do you agree with his statement?
 20 MS. HENN: Objection to form.
 21 BY MR. KENNEDY:
 22 Q. And he states:
 23 (Reading) It is required -- dispensing
 24 data, it is required if the new
 25 account is requesting more than the

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1 minimum stated in the questionnaire
 2 (end of reading).
 3 Did you agree with that statement when you
 4 read it?
 5 MS. HENN: Objection to form.
 6 THE WITNESS: Again, I don't recall
 7 specifically. What I would say is that I didn't
 8 disagree with his request.
 9 BY MR. KENNEDY:
 10 Q. You know, we have looked at -- we
 11 have been provided your emails, and we see nowhere in
 12 your emails where you emailed back to all these
 13 people and Mr. McDonald and saying, you know what, it
 14 isn't required. We don't find any statement by you
 15 in that fashion.
 16 Do you have a memory of emailing him back
 17 and saying, Mr. McDonald, you're wrong. Dispensing
 18 data is not required? Do you remember doing that?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: No, specifically I do not
 21 remember that.
 22 BY MR. KENNEDY:
 23 Q. All right. He next says -- the
 24 bullet next -- and this is the important one for what
 25 we're going to talk about -- he states:

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1 (Reading) It is also required when
 2 customer's request increases on
 3 elevated thresholds (end of reading).
 4 Did you disagree with that statement at the
 5 time and email him back and say, no, you're wrong?
 6 MS. HENN: Objection to form.
 7 THE WITNESS: Again, not -- not that I
 8 recall.
 9 BY MR. KENNEDY:
 10 Q. The next bullet says:
 11 (Reading) The request for dispensing
 12 data is standard and should not
 13 deviate (end of reading).
 14 And he goes down and says, a couple more
 15 bullets down says, "The most recent three months of
 16 data" -- that's the dispensing data that they are
 17 talking about; right?
 18 MS. HENN: Objection to form.
 19 BY MR. KENNEDY:
 20 Q. Do you see that?
 21 A. I do. It would appear that that's
 22 what he's requesting.
 23 Q. And then he says:
 24 (Reading) The data must be by line
 25 dispensed (end of reading).

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1 Do you see that?

2 A. Yes.

3 Q. He's very specific about what's

4 required with respect to specific dispensing data, is

5 he not?

6 A. He's being very specific.

7 Q. Then he says:

8 (Reading) The data must, it must

9 include product description, date

10 dispensed, quantity in dosage units,

11 method of payment, prescribing doctor,

12 and the doctor's DEA number (end of

13 reading).

14 Do you see that?

15 A. Yes.

16 Q. Do you remember disagreeing with him

17 at that time and sending him back an email, calling

18 him on the phone, having a meeting, saying, you're

19 wrong, that is not what is required? Do you remember

20 doing that?

21 A. I do not remember any follow-up

22 response to him and disagreeing with him or

23 counseling him to do otherwise.

24 Q. What he's talking about is a good

25 idea; is it? Is it not a good idea to fulfill your

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1 obligations to get the dispensing data if an

2 independent or small pharmacy wants an increase in

3 their threshold?

4 MS. HENN: Objection to form. Lacks

5 foundation.

6 THE WITNESS: The view that I would have is

7 at the time that we were working under the CSMP and

8 gaining additional expertise and insight into how we

9 would manage our controlled substance program and our

10 understanding of pharmacies, dispensing data became a

11 tool that we had potentially available to us.

12 BY MR. KENNEDY:

13 Q. This is January of 2012, and

14 Mr. McDonald, who's responsible for the entire West

15 Region, is saying dispensing data is required if a

16 pharmacy wants to increase their threshold; isn't

17 that what he is saying?

18 MS. HENN: Objection. Mischaracterizes the

19 document.

20 BY MR. KENNEDY:

21 Q. Isn't that what he is saying?

22 MS. HENN: Same objection.

23 THE WITNESS: What he is saying, for his

24 review, and what he is requesting from his field and

25 sales and ops teams, are these components so that he

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1 can make an informed decision on thresholds.

2 BY MR. KENNEDY:

3 Q. And, sir, he uses the word "required"

4 and "must" -- or "must" four times; doesn't he? Four

5 times?

6 A. Yes, he does.

7 Q. And he's in charge -- Mr. McDonald is

8 in charge of the Western Region. How many states did

9 that include? What states?

10 A. If there were just four of the DRAs

11 at the time, he would have had the western states,

12 and from Colorado, north to Wyoming, south to

13 Arizona -- I can't remember -- New Mexico west.

14 Q. California?

15 A. California.

16 Q. Arizona?

17 A. California, Arizona, Oregon,

18 Washington, Colorado, New Mexico.

19 Q. He's in charge of thousands of

20 pharmacies, thousands of customers; is he not?

21 A. There -- there were a lot of

22 pharmacies in the west.

23 Q. This -- this dispensing data that he

24 is saying is required and is a must, dispensing data

25 allows McKesson to know whether or not an opiate is

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1 being purchased with cash; does it not?

2 MS. HENN: Objection to form. Lacks

3 foundation.

4 THE WITNESS: I don't believe that's

5 accurate.

6 BY MR. KENNEDY:

7 Q. All right. We will look at documents

8 in a minute. But I'm going to write that down.

9 All right.

10 So I wrote dispensing -- I wrote your name,

11 Mr. Walker, "Dispensing data does not include cash

12 payment information." Is that your -- is that your

13 testimony?

14 MS. HENN: Objection to form.

15 THE WITNESS: That was not my testimony.

16 What I said is your question statement was not

17 accurate.

18 BY MR. KENNEDY:

19 Q. If you get dispensing data from a

20 pharmacy, you're going to be able to see cash

21 payments; are you not, sir?

22 A. Not necessarily.

23 Q. In many instances will you be able to

24 see that, sir?

25 A. If -- if the pharmacist chooses to

<p style="text-align: right;">Page 158</p> <p>1 enter a cash payment in their pharmacy terminal 2 system where this data originates, then, yes, it will 3 show up. 4 Q. All right. 5 A. If he chooses not to do that, it 6 won't show up. 7 Q. All right. And so you're getting 8 dispensing data. And if the pharmacist is putting 9 cash payments in, all right, you're going to be able 10 to see cash payments -- correct? -- from what you 11 just said, if the pharmacist is entering it; true? 12 MS. HENN: Objection to form. 13 BY MR. KENNEDY: 14 Q. True? 15 A. If the pharmacist enters it into the 16 pharmacy terminal system, we would see that. 17 Q. And a certain percentage of cash 18 payments for opioids for narcotics is evidence of 19 diversion; is it not? 20 MS. HENN: Objection to form. 21 THE WITNESS: The DEA identified cash 22 payment percentage as a potential indicator. 23 BY MR. KENNEDY: 24 Q. All right. And if you get dispensing 25 data, as indicated in this memo, it's going to tell</p>	<p style="text-align: right;">Page 160</p> <p>1 that's one of the things that you should look for; 2 true? Back in '06 they told you? 3 MS. HENN: Objection to form. Lacks 4 foundation. 5 THE WITNESS: Repeat your question, Counsel. 6 BY MR. KENNEDY: 7 Q. And the DEA told you back in 2006 8 that's one of the things you should look for, a small 9 number of doctors ordering a large percent of the 10 opioids from a pharmacy? That's one of the things 11 you should look for? 12 A. My recollection of the document, the 13 documents state that is one of the areas that they 14 outlined. 15 Q. And if you had the doctor's name from 16 the prescribing -- or the prescribing data, you 17 could -- McKesson could research as to whether or not 18 this physician was having problems with any medical 19 board; couldn't you? 20 MS. HENN: Objection to form. 21 BY MR. KENNEDY: 22 Q. If you had that data? 23 A. I believe, Counsel -- I didn't 24 specifically make any type of inquiries myself, but 25 my understanding was, is that we -- you had the</p>
<p style="text-align: right;">Page 159</p> <p>1 you who the prescribing doctors are; is it not? 2 MS. HENN: Objection to form. 3 THE WITNESS: If the data is complete, we 4 would see the doctors -- generally see the doctors in 5 the dispensing data. 6 BY MR. KENNEDY: 7 Q. And that would allow McKesson to 8 determine whether a small group of doctors is 9 prescribing a large amount of opioids; correct? You 10 would be able to do that if you had the dispensing 11 data; true? 12 MS. HENN: Objection to form. 13 THE WITNESS: I'm not sure I can answer that 14 accurately. Generally, if the physicians are in 15 there and the data was complete, not -- our challenge 16 was, is the data wasn't always complete. So I'm 17 reluctant to say that that is accurate. 18 BY MR. KENNEDY: 19 Q. If you have accurate prescribing 20 data, McKesson would be able to determine whether a 21 small group of doctors is ordering a large percentage 22 of the opioids from that pharmacy; correct? You're 23 able to do that? 24 A. If the data was accurate, yes. 25 Q. And the DEA told you back in '06 that</p>	<p style="text-align: right;">Page 161</p> <p>1 ability to identify any doctors if, in fact, there 2 was documentation on state medical board sites. 3 Q. And if you got the dispensing data, 4 as Mr. McDonald is saying here in 2012 is required, 5 you can now actually see if a pharmacy is purchasing 6 opioids from other distributors, other than just 7 McKesson; correct? 8 MS. HENN: Objection to form. Lacks 9 foundation. 10 THE WITNESS: I don't recall that we had the 11 ability or felt we had the ability to determine 12 multiple distribution -- distributors supplying a 13 pharmacy through dispensing data. 14 BY MR. KENNEDY: 15 Q. Let me ask you this. If the 16 dispensing data says that a particular pharmacy is 17 dispensing, selling 1,000 Oxycontin in a month, and 18 your records say you're selling them only 500, then 19 you can reasonably conclude that they are getting 20 Oxycontin from somebody other than just McKesson; 21 right? 22 MS. HENN: Objection. Calls for 23 speculation. 24 THE WITNESS: Counsel, there are so many 25 variables in pharmacy behavior, in terms of inventory</p>

<p style="text-align: right;">Page 162</p> <p>1 management, again, it's very difficult for me to 2 answer accurately whether that could take place. 3 BY MR. KENNEDY: 4 Q. If you have the dispensing data, 5 McKesson would be able to determine the percentage of 6 controlled substances against total prescriptions? 7 They would be able to calculate that, wouldn't they? 8 MS. HENN: Objection. Lack of foundation. 9 Speculation. 10 THE WITNESS: Counsel, I'm having a 11 difficult time answering the question. I think it's 12 an oversimplification of analysis of the value of 13 this dispensing data. 14 As I stated, it was a very valuable tool to 15 us, but it was a single tool. We had other data 16 points that we needed to understand. 17 BY MR. KENNEDY: 18 Q. Isn't that exactly one of the things 19 that the DEA told McKesson in 2006 you ought to be 20 looking to, the percentage of controlled substances 21 that a pharmacy was selling against its total 22 prescription sales? Isn't that one of the specific 23 items that DEA informed you in 2006 you should be 24 looking at? 25 MS. HENN: Objection. Lack of foundation.</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. Well, between Mr. McDonald now and 2 Mr. Gustin, they probably account for more than half 3 of the country; would that be right? 4 A. Certainly half the geography. 5 Q. Thousands of pharmacies; right? 6 A. There would be a large number of 7 pharmacies in that area. 8 Q. And Mr. Gustin -- now, this is 9 1-16-12. This is about the same time of McDonald's 10 email talking about dispensing data. And can you 11 tell us who's this large group of people that he 12 seems to be sending this email to? 13 A. This appears to be the North Central 14 Region Sales and Operations teams. 15 Q. Look at the next page, if you would. 16 See on the next page, a January 5, 2012, email from 17 Dave Gustin? 18 A. Yes. 19 Q. Another large group of people? 20 A. Yes. 21 Q. In the first paragraph does he state: 22 (Reading) As an ongoing effort -- as 23 an ongoing effort to educate and 24 inform the region, it is important 25 that we all understand what the</p>
<p style="text-align: right;">Page 163</p> <p>1 BY MR. KENNEDY: 2 Q. Correct? 3 A. My recollection, was that the 4 percentage of controlled substance sales were a point 5 of indication. 6 MR. KENNEDY: All right. So we've got 7 Mr. McDonald in January of '12 is saying dispensing 8 data is a must, dispensing data is required. Let's 9 look to another region, all right? Let's look to 10 Exhibit 680. 11 (Exhibit No. 680 was marked.) 12 MS. HENN: Thank you. 13 BY MR. KENNEDY: 14 Q. Exhibit 680 is -492821 to -492823. 15 This is an email from Dave Gustin; correct? 16 A. Yes. 17 Q. Tell the jury who Dave Gustin was? 18 A. Dave Gustin was the Director of 19 Regulatory Affairs, DRA, for the Central Region. 20 Q. And the Central Region, how many 21 states are in the Central Region? 22 A. I don't know specifically the number 23 of states going from memory here, but it's basically 24 the Midwest, stretching down into Kentucky. So Iowa, 25 Nebraska, Minnesota, Illinois, Indiana.</p>	<p style="text-align: right;">Page 165</p> <p>1 requirements are related to threshold 2 increases, new customer loads, 3 questionnaires, and our ongoing due 4 diligence as defined in our Controlled 5 Substance Monitoring Program (end of 6 reading). 7 Do you see that? 8 A. Yes. 9 Q. So he's talking about requirements, 10 and he's talking about the Controlled Substances 11 Monitoring Program of 2008; true? 12 A. Yes. 13 Q. And that program applied nationally; 14 did it not? 15 A. Yes, it did. 16 Q. Look at the next page, if you would, 17 page -23. In big capital letters, "Dispensing data." 18 Do you see that? 19 A. Yes. 20 Q. Now, this is Mr. Gustin, and he is 21 the Director of Regulatory Affairs for the entire 22 North Central Region of the United States; true? 23 A. Yes. 24 Q. And he states, and he seems -- maybe 25 he's parroting Mr. McDonald. But now he is writing</p>

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1 to his region:
 2 (Reading) Dispensing data is an
 3 integral part for understanding a
 4 customer's business for those accounts
 5 requiring higher thresholds (end of
 6 reading).
 7 Do you see that?
 8 A. Yes.
 9 Q. And at this point in time, 2012,
 10 McKesson had the absolute duty and obligation to
 11 understand and know its customer, the pharmacy; did
 12 it not?
 13 MS. HENN: Objection to form.
 14 THE WITNESS: As part of our regulatory
 15 program, CSMP, knowing our customer was an integral
 16 part of the program.
 17 BY MR. KENNEDY:
 18 Q. And that's what the DEA expected;
 19 true?
 20 MS. HENN: Objection to form.
 21 BY MR. KENNEDY:
 22 Q. The DEA expected you to know your
 23 customer, the pharmacy; true?
 24 MS. HENN: Objection to form.
 25 THE WITNESS: The DEA's guidance was, "Know

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1 your customer."
 2 BY MR. KENNEDY:
 3 Q. That's what they expected; yes, sir?
 4 MS. HENN: Objection to form.
 5 THE WITNESS: I would classify it more of
 6 their guidance rather than an expectation.
 7 BY MR. KENNEDY:
 8 Q. All right. Well, look at -- look at
 9 your Controlled Substances Monitoring Program, if you
 10 would, the program you put in place in 2008, which is
 11 Exhibit 672? Back to 672, if you could.
 12 MS. HENN: The 2013 version?
 13 MR. KENNEDY: Yes.
 14 THE WITNESS: I see it.
 15 BY MR. KENNEDY:
 16 Q. Do you see that? Under, "Purpose,"
 17 the second paragraph down, does it state the DEA
 18 expects McKesson to know their customer? Do you see
 19 that?
 20 A. Yes, it says that.
 21 Q. Was that in place in 2008, or is that
 22 some amendment that was added?
 23 MS. HENN: Objection to form.
 24 THE WITNESS: I don't know. It's clearly in
 25 the -- it's in the document.

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1 BY MR. KENNEDY:
 2 Q. Let's go back, then, if we could, to
 3 Exhibit 680. This is Mr. Gustin, from the North
 4 Central Region; correct?
 5 A. Yes.
 6 Q. And he's writing his region. And if
 7 we look to bullet point 2, he states:
 8 (Reading) It is required -- he's
 9 talking about dispensing data. It is
 10 required if a new account is
 11 requesting more than the minimum
 12 stated in the questionnaire (end of
 13 reading).
 14 Is that what he states to the Midwest region
 15 now?
 16 A. Yes.
 17 Q. (Reading) It is also required
 18 when customers request increases above
 19 the standard threshold when the
 20 request is in excess of 10 percent
 21 increase and/or dosages are beyond
 22 12,000, and should be gathered by
 23 whoever is receiving the request,
 24 either the DC or the RSM in the field
 25 (end of reading).

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1 Does he state that?
 2 A. Yes.
 3 Q. And the second bullet point down, it
 4 seems to be the same as Mr. McDonald, he's saying
 5 What you want to get is the product description;
 6 right? That's going to tell you whether it's a
 7 hydrocodone, an oxycodone, or fentanyl or morphine;
 8 correct?
 9 A. Yes.
 10 Q. And you want the date dispensed;
 11 right?
 12 A. Yes.
 13 Q. Is that what he says?
 14 A. Yes.
 15 Q. And he says you want the quantity.
 16 You want the method of payment; right? That's going
 17 to tell you whether it's cash. Is that what he's
 18 saying?
 19 A. Let me catch up with you here.
 20 Yes.
 21 Q. And he puts that in bold even; right?
 22 A. Yes, it's in bold.
 23 Q. And he says, you want the prescribing
 24 doctor and the doctor's DEA number; true? That's
 25 what he's saying you are required to get for the

<p style="text-align: right;">Page 170</p> <p>1 Midwest, the North Midwest part of the United States, 2 his region -- 3 A. Yes. 4 Q. -- true? 5 But you didn't think this was required? Was 6 that your testimony as the -- as the boss over these 7 two, you didn't think that was required? 8 MS. HENN: Objection to form. 9 THE WITNESS: I think it's better stated 10 that I -- I certainly didn't object to them requiring 11 this to conduct their own due diligence. I put a 12 great deal of responsibility on their 13 decision-making. If they required their team to 14 provide this information so they could make their 15 decision, I supported that. 16 BY MR. KENNEDY: 17 Q. And you didn't look at this and say, 18 this is important; I want to make sure everybody is 19 doing it in the country? You didn't do that? 20 MS. HENN: Objection to form. 21 THE WITNESS: I don't recall any specific 22 action that I took relative to these -- these emails 23 and directions. 24 MR. KENNEDY: Let's look at 681, 25 Exhibit 681.</p>	<p style="text-align: right;">Page 172</p> <p>1 requesting an increase on either 2 hydrocodone or oxy-base codes, we will 3 need dispensing data (three months 4 minimum is required). This does 5 include temporary as well as permanent 6 increases (end of reading). 7 Do you see that? 8 A. Yes. 9 Q. Down in the next paragraph, last 10 sentence, under the heading of, "What type of data do 11 we need?" Last sentence: 12 (Reading) In case the data -- in each 13 case the data must include the names 14 of the prescribers and other 15 information shown below (end of 16 reading). 17 Then it states: 18 (Reading) What we will do with the 19 data?" We require for anomalies 20 sequential script numbers, inordinate 21 quantities. The top five to ten 22 prescribers will have their names 23 checked on the state Medical Board 24 site to see if they have any 25 disciplinary actions against them. We</p>
<p style="text-align: right;">Page 171</p> <p>1 (Exhibit No. 681 was marked.) 2 BY MR. KENNEDY: 3 Q. Showing you what has been marked as 4 Exhibit 681, which is -490953 to -54. Now, this is 5 about 11 months after the Western Region, the Central 6 Region have said dispensing data is required, and now 7 we have an email by Joe Lumpkin. 8 Who was Joe Lumpkin? 9 A. Joe Lumpkin was one of two of our 10 DRAs that we assigned to the Northeast Region. 11 Q. And, now, on November 30, 2012, he 12 sends an email to a large group of people; does he 13 not? 14 A. Yes. 15 Q. And he says, "Northeast Team," right, 16 at the beginning? 17 A. Yes. 18 Q. And he says, "As of December 1, 19 please be aware it is required for any ISMC" -- and 20 that would be the independent small, medium chains; 21 right? 22 A. Yes. 23 Q. He says: 24 (Reading) Please be aware it's 25 required for any ISMC which is</p>	<p style="text-align: right;">Page 173</p> <p>1 will also look at the cash percentage 2 for controlled drugs versus other 3 methods of payment and if they fill 4 for pain clinics (end of reading). 5 He's talking about doing with the dispensing 6 data exactly what you and I have been talking about; 7 correct? Cash payments; right? Looking at doctors 8 right on a website, as to see whether or not they 9 have issues with the Medical Board; right? He's 10 talking about what we have been talking about; true? 11 MS. HENN: Objection. Compound. 12 THE WITNESS: He's referring to a number of 13 things that he's going to do with the data. I think, 14 as I view this, he is being clear with his team what 15 he plans to do with the data they are collecting. 16 BY MR. KENNEDY: 17 Q. And these are exactly the things that 18 you told us the DEA said to look out for in 2006; 19 right? 20 MS. HENN: Objection. Lacks foundation. 21 BY MR. KENNEDY: 22 Q. It's now 2012. The DEA said to 23 McKesson in 2006, these are some of the things to 24 look out for? 25 MS. HENN: Same objection.</p>

<p style="text-align: right;">Page 174</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Correct?</p> <p>3 A. I'm not -- I'm not sure I understand</p> <p>4 your question, Counsel. The DEA outlined the items</p> <p>5 such as this in 2006, that is correct.</p> <p>6 Q. And my point is, sir, it's six years</p> <p>7 later -- it's 2012 -- and the entire Eastern Region</p> <p>8 is saying, as of December 1, 2012, six years after</p> <p>9 these have been outlined by the DEA, we're going to</p> <p>10 start doing this; correct?</p> <p>11 MS. HENN: Objection. Mischaracterizes the</p> <p>12 document. Lack of foundation.</p> <p>13 THE WITNESS: I wouldn't agree with that</p> <p>14 statement. We had a number of tools we used</p> <p>15 throughout the time that we executed CSMP.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. Sir, other than the dispensing data,</p> <p>18 where are you going to get the names of the doctors</p> <p>19 prescribing medications? Where are you getting the</p> <p>20 names?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Tell us.</p> <p>24 A. I'm not aware of all the potential</p> <p>25 sources, but -- that we could get for, you know,</p>	<p style="text-align: right;">Page 176</p> <p>1 sales standpoint.</p> <p>2 Q. Your sales standpoint, not the total</p> <p>3 sales; correct? Your sales --</p> <p>4 MS. HENN: Objection. Calls for</p> <p>5 speculation.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. -- but not the total sales of a</p> <p>8 pharmacy; true?</p> <p>9 MS. HENN: Calls for speculation.</p> <p>10 THE WITNESS: Again, we -- we could look at</p> <p>11 the sales record as a percentage of sales to a given</p> <p>12 pharmacy.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. McKesson's data, not the pharmacy's;</p> <p>15 true?</p> <p>16 MS. HENN: Objection to form.</p> <p>17 BY MR. KENNEDY:</p> <p>18 Q. True?</p> <p>19 A. This was McKesson's data.</p> <p>20 Q. Right. You can't do it for the</p> <p>21 pharmacy because you don't know how many different</p> <p>22 folks they are buying from; right?</p> <p>23 MS. HENN: Objection to form. Calls for</p> <p>24 speculation.</p> <p>25 ///</p>
<p style="text-align: right;">Page 175</p> <p>1 doctors prescribing.</p> <p>2 Q. Other than the dispensing data, where</p> <p>3 are you going to find out what's getting paid for in</p> <p>4 cash, sir? Like the DEA said six years earlier you</p> <p>5 ought to look for, where are you going to find that</p> <p>6 information without the dispensing data?</p> <p>7 MS. HENN: Objection to form. Calls for</p> <p>8 speculation.</p> <p>9 THE WITNESS: I really don't know. I</p> <p>10 mean --</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. Tell me, how are you going to run</p> <p>13 percentages of controlled substances at a particular</p> <p>14 pharmacy versus total prescriptions without</p> <p>15 dispensing data, sir? Tell me that. Where are you</p> <p>16 going to get it?</p> <p>17 MS. HENN: Objection to form.</p> <p>18 THE WITNESS: Again, I would -- I would</p> <p>19 speculate. But I would like to clarify that DEA's</p> <p>20 guidance in 2006 was percentage of sales of</p> <p>21 controlled substances to total pharmacy sales.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. And where are you going to get that</p> <p>24 information other than dispensing data?</p> <p>25 A. We would have that information from a</p>	<p style="text-align: right;">Page 177</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Correct?</p> <p>3 A. Again, I don't know that I can answer</p> <p>4 because there's a number of different tools that we</p> <p>5 could use to understand if a pharmacy was just our</p> <p>6 customer.</p> <p>7 Q. Tell me where in 2012, without the</p> <p>8 dispensing data, you can find out the total amount of</p> <p>9 oxycodone being sold by a particular pharmacy? Tell</p> <p>10 me.</p> <p>11 MS. HENN: Objection to form. Calls for</p> <p>12 speculation.</p> <p>13 THE WITNESS: I don't know.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. And this is the exact reason why</p> <p>16 Mr. McDonald, Mr. Gustin, and now Mr. Lumpkin are</p> <p>17 saying dispensing data is required; correct?</p> <p>18 MS. HENN: Objection. Calls for</p> <p>19 speculation.</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. Right?</p> <p>22 A. Again, these three DRAs were</p> <p>23 directing their regions to submit information that</p> <p>24 they needed to make decisions on thresholds,</p> <p>25 establishment and changes.</p>

<p style="text-align: right;">Page 178</p> <p>1 Q. Sir, let's look at what Mr. Lumpkin 2 says here. He says -- under this heading, "What are 3 we going to do with it?" "What are we going to do 4 with it?" And he's talking about dispensing data; 5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. He says: 8 (Reading) We will review for 9 anomalies, sequential script numbers, 10 inordinate quantities, the top five or 11 ten prescribers. We can check their 12 names with the Medical Board to see if 13 there are disciplinary actions (end of 14 reading).</p> <p>15 Cash percentages. Controlled drugs. See if 16 they are filling for pain clinics. That's what he 17 says they are going to do with the dispensing data; 18 correct?</p> <p>19 A. That is correct.</p> <p>20 Q. He doesn't say, we don't need to get 21 this dispensing data because we could do all of this, 22 we can calculate all of these numbers, we can get all 23 of this information from other means; does he? Does 24 he say that?</p> <p>25 A. He's being very specific that he</p>	<p style="text-align: right;">Page 180</p> <p>1 necessarily accurate that we waited until this time 2 to use any of the data that's here. The fact that 3 we're communicating and requiring it is simply a 4 communication to the field. But I know that our 5 teams used a lot of different data to make 6 determinations on thresholds between 2008, when we 7 established thresholds, and 2012, as you've outlined 8 here.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. In 2012, when these folks that are 11 responsible for more than half of the country say 12 dispensing data is required in 2012, you knew at that 13 point in time that there was an extraordinary 14 epidemic going on in this country with the drugs that 15 you were selling? Didn't you know it by then?</p> <p>16 MS. HENN: Objection. Lacks foundation.</p> <p>17 THE WITNESS: In the 2011, 2000 [sic] time 18 frame, the public information around the abuse of 19 prescription drugs was ramping up significantly.</p> <p>20 MS. HENN: I think we are going to have to 21 go off the record.</p> <p>22 THE VIDEOGRAPHER: We are going off the 23 record. The time is 12:44 p.m.</p> <p>24 (Lunch recess taken at 12:44 p.m.) 25 --oOo--</p>
<p style="text-align: right;">Page 179</p> <p>1 wants the dispensing data to help with identifying 2 these things and make decisions around thresholds.</p> <p>3 Q. And Mr. Gustin in the Midwest was 4 saying it, and Mr. Lumpkin in the East was saying it, 5 and Mr. McDonald in the West was saying it, and the 6 DEA had been saying it since 2006, sir; isn't that 7 all correct?</p> <p>8 MS. HENN: Objection. Lacks foundation.</p> <p>9 THE WITNESS: The DEA in the 2006 time frame 10 talked about physicians.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. My question is real simple. You were 13 the boss. You were the head of all of Regulatory. 14 You're responsible to manage the obligation of 15 McKesson with respect to controlled substances. And 16 my question is this: What took McKesson six years, 17 six years to start requiring dispensing data for 18 threshold increases? What took them six years?</p> <p>19 MS. HENN: Objection to form. Lacks 20 foundation.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. Look back in your memory. What took 23 them six years to begin to require this information?</p> <p>24 MS. HENN: Same objections.</p> <p>25 THE WITNESS: First, I don't know that it's</p>	<p style="text-align: right;">Page 181</p> <p>1 AFTERNOON SESSION 1:19 P.M. 2 --oOo--</p> <p>3 THE VIDEOGRAPHER: We are back on the 4 record. The time is 1:19 p.m.</p> <p>5 BY MR. KENNEDY:</p> <p>6 Q. All right. Mr. Walker, we've talked 7 a bit about the independents, the small, medium, the 8 smaller chains. I want to switch gears now and talk 9 to you about what McKesson called the RNAs, or the 10 regional national accounts; all right?</p> <p>11 A. Yes.</p> <p>12 Q. You're familiar with RNA, regional 13 national account terminology?</p> <p>14 A. The -- yes, I am. The correct 15 terminology is retail national account.</p> <p>16 Q. I'm sorry. Those would be the big 17 chains?</p> <p>18 A. Big chains.</p> <p>19 Q. The CVS, the Walgreens, the Walmarts, 20 the Rite Aids; correct?</p> <p>21 A. That size chain, yes.</p> <p>22 Q. Those are big customers; we agree? 23 The big chains were big customers to McKesson?</p> <p>24 A. Yes.</p> <p>25 Q. Probably over a billion dollars worth</p>

<p style="text-align: right;">Page 182</p> <p>1 of business with big -- big national pharmacies?</p> <p>2 MS. HENN: Objection. Lacks foundation.</p> <p>3 THE WITNESS: I don't recall the specific</p> <p>4 sales volume, but they are large -- they were large</p> <p>5 customers.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. I mean, would you disagree if I were</p> <p>8 to say that probably the majority of McKesson's</p> <p>9 controlled substance sales were being made to the big</p> <p>10 retail national accounts?</p> <p>11 MS. HENN: Objection to form. Lacks</p> <p>12 foundation.</p> <p>13 THE WITNESS: I actually cannot say because</p> <p>14 it would be speculative, just due to the business</p> <p>15 models of particularly some of the hospital accounts.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. All right. Anyway, the big national</p> <p>18 accounts made up 16,000-plus individual pharmacies;</p> <p>19 does that sound right?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: I don't recall specifically</p> <p>22 the number of pharmacies that were involved in that</p> <p>23 segment.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. Can we agree that McKesson's legal</p>	<p style="text-align: right;">Page 184</p> <p>1 responsibility applied to the large national chains;</p> <p>2 true?</p> <p>3 A. As part of our program, yes, it did.</p> <p>4 Q. The responsibility of McKesson to</p> <p>5 identify suspicious orders, based upon size and</p> <p>6 frequency, unusual pattern, applied to the big</p> <p>7 regional national accounts -- retail national</p> <p>8 accounts -- I'm sorry -- would that be true?</p> <p>9 MS. HENN: Objection to form.</p> <p>10 THE WITNESS: All the elements of our</p> <p>11 Controlled Substance Monitoring Program would have</p> <p>12 applied to national accounts.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. Now, with respect to threshold</p> <p>15 increases. We talked about threshold increases in</p> <p>16 the smaller chains. Let's talk about threshold</p> <p>17 increases with respect to the big chains.</p> <p>18 From time to time McKesson would increase</p> <p>19 thresholds for pharmacies that were part of a large</p> <p>20 retail account; correct?</p> <p>21 MS. HENN: Objection to form.</p> <p>22 THE WITNESS: Yes, we -- we would increase</p> <p>23 thresholds.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. But with respect to the big pharmacy</p>
<p style="text-align: right;">Page 183</p> <p>1 duties, responsibilities to monitor and prevent</p> <p>2 diversion applies to the large national chains in the</p> <p>3 same fashion it applies to the independent smaller</p> <p>4 chains?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 THE WITNESS: Yes, our -- our overall</p> <p>7 controlled substance and regulatory responsibility</p> <p>8 applied the all the registrants that we provided</p> <p>9 controlled substances to.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. And that's always been true? Going</p> <p>12 back to 1970, 1971, when the Controlled Substance Act</p> <p>13 came into existence and the regulations came into</p> <p>14 existence, that's always been true; your</p> <p>15 responsibility to the large chains was no different</p> <p>16 than your responsibilities related to an independent</p> <p>17 pharmacy?</p> <p>18 MS. HENN: Objection to form.</p> <p>19 THE WITNESS: Outside of the direct</p> <p>20 experience that I had and exposure I had with the</p> <p>21 retail national accounts, I can't say what happened</p> <p>22 in the early years. But certainly during my tenure</p> <p>23 it was the same.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. The "Know Your Customer"</p>	<p style="text-align: right;">Page 185</p> <p>1 chains, when you were going to increase a threshold,</p> <p>2 McKesson would not communicate directly with the</p> <p>3 specific pharmacy that was requesting the increase,</p> <p>4 McKesson, rather, would communicate with the</p> <p>5 corporate headquarters of the big chain; is that</p> <p>6 accurate?</p> <p>7 A. As part of our Controlled Substance</p> <p>8 Monitoring Program, we utilized the retail national</p> <p>9 account chain regulatory teams in the communication</p> <p>10 often. It varied by -- by account or by customer.</p> <p>11 But we did leverage the regulatory teams at the</p> <p>12 national accounts.</p> <p>13 Q. In fact, if an individual pharmacy,</p> <p>14 for example, of CVS, an individual pharmacy of CVS</p> <p>15 would call McKesson for a threshold increase, that</p> <p>16 individual pharmacy would be directed back to CVS</p> <p>17 headquarters and say, have your headquarters contact</p> <p>18 us about a threshold increase; true?</p> <p>19 MS. HENN: Objection. Calls for</p> <p>20 speculation.</p> <p>21 THE WITNESS: I'm not aware of any occasions</p> <p>22 where a pharmacy called us directly. We really</p> <p>23 depended upon the customer -- the headquarters of</p> <p>24 each of those pharmacies to manage their pharmacies</p> <p>25 and direct them as to how changes would take place.</p>

<p style="text-align: right;">Page 186</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. All right. So if you're talking</p> <p>3 about CVS, for example, you would be dealing with</p> <p>4 headquarters in Providence, Rhode Island; that was</p> <p>5 the norm? Correct?</p> <p>6 A. Yes.</p> <p>7 Q. Walgreens, if there was an issue, a</p> <p>8 threshold increase with respect to a Walgreens</p> <p>9 pharmacy in Utah, you would probably deal with</p> <p>10 headquarters in Deerfield, Illinois; right?</p> <p>11 A. Actually, Walgreens wasn't one of our</p> <p>12 customers. It would have been nice, but they</p> <p>13 weren't.</p> <p>14 Q. That's the concept? You're dealing</p> <p>15 with headquarters; correct?</p> <p>16 A. Yes.</p> <p>17 Q. Who is Elaine Thomet, if I'm saying</p> <p>18 that right?</p> <p>19 A. I'm sorry. Can you spell the last</p> <p>20 name.</p> <p>21 Q. T-h-o-m-e-t.</p> <p>22 A. Thomet.</p> <p>23 Q. Thomet. I am very sorry. I wasn't</p> <p>24 even close.</p> <p>25 Who is she or who was she in this period of</p>	<p style="text-align: right;">Page 188</p> <p>1 (Witness reviewing document.)</p> <p>2 A. Okay.</p> <p>3 Q. If you want to look -- look to page</p> <p>4 -74. That would be the third page in.</p> <p>5 And you remember, we've had a discussion</p> <p>6 about dispensing data and whether or not that was</p> <p>7 required for an increase in a drug threshold for the</p> <p>8 smaller independent accounts. Do you recall that</p> <p>9 discussion we had? Correct?</p> <p>10 A. I'm sorry. Repeat your question.</p> <p>11 Q. We've -- we've had a discussion --</p> <p>12 I've asked you about the requirement for dispensing</p> <p>13 data in -- when increasing the threshold of an</p> <p>14 independent or smaller chain. You recall that</p> <p>15 discussion?</p> <p>16 A. Yes.</p> <p>17 MS. HENN: Objection to form.</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. So I want to have that discussion now</p> <p>20 with respect to the regional national accounts.</p> <p>21 If you look to page -74, down at the bottom,</p> <p>22 you will see a November 1, 2012, email, it looks like</p> <p>23 from Perry Anderson, where it says:</p> <p>24 (Reading) Hi, Dan, quick question.</p> <p>25 See Frank's email below regarding CSMP</p>
<p style="text-align: right;">Page 187</p> <p>1 '08 to, let's say, '14, 2014?</p> <p>2 A. My recollection is Elaine and her</p> <p>3 responsibilities during that time frame, she worked</p> <p>4 in our retail national account support team. She was</p> <p>5 a -- as I understood it -- I don't remember her</p> <p>6 title -- was primarily a liaison, you know, from the</p> <p>7 retail national account support team into operations</p> <p>8 and others.</p> <p>9 Q. Okay. She would liaison into</p> <p>10 regulatory?</p> <p>11 A. On occasion, I believe that's</p> <p>12 correct.</p> <p>13 MR. KENNEDY: Let's look at Exhibit 677.</p> <p>14 (Exhibit No. 677 was marked.)</p> <p>15 MR. KENNEDY: And that is Bates -52132 to</p> <p>16 -375.</p> <p>17 Q. I want to look at an email, the top</p> <p>18 email on the first page, -72.</p> <p>19 A. I haven't seen this document before.</p> <p>20 Could I just --</p> <p>21 Q. Sure.</p> <p>22 A. -- have a moment to familiarize</p> <p>23 myself?</p> <p>24 Q. Please.</p> <p>25 A. Thank you.</p>	<p style="text-align: right;">Page 189</p> <p>1 threshold adjustments (end of</p> <p>2 reading).</p> <p>3 That's Controlled Substance Monitoring</p> <p>4 Program; right?</p> <p>5 A. Yes.</p> <p>6 Q. And they are asking about threshold</p> <p>7 adjustments. And he says, "Is it common -- common</p> <p>8 practice in RNA" -- that would be the big chains;</p> <p>9 right? Right? RNA?</p> <p>10 A. Yes.</p> <p>11 Q. (Reading) Is it common practice</p> <p>12 in RNA to change thresholds without</p> <p>13 asking for this similar backup, or is</p> <p>14 it more or less done by RNA support</p> <p>15 team behind the scenes for RNA</p> <p>16 accounts (end of reading)?</p> <p>17 Now, go back to -74. And here seems to be</p> <p>18 the response. Dan Jeffries responds:</p> <p>19 (Reading) We do -- we adjust at the</p> <p>20 request of the customer, but we don't</p> <p>21 ask for dispense data (end of</p> <p>22 reading).</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. He's talking about the regional</p>

<p style="text-align: right;">Page 190</p> <p>1 national accounts. Was that the policy -- and it's 2 2012 -- that with respect to increases in the 3 thresholds for pharmacies that were a part of the big 4 chains, you did not ask for dispensing data? 5 MS. HENN: Objection to form. 6 THE WITNESS: Generally we did not ask for 7 any dispensing data from our retail national account 8 pharmacies. 9 BY MR. KENNEDY: 10 Q. Go to page -72, the first page. Now, 11 this is an email from Elaine Thomet on 11-2-12. And 12 she says: 13 (Reading) If it helps, I will add some 14 clarification. What Frank may not 15 understand is that with RNA, the big 16 accounts, we are able to establish the 17 regulatory relationship with their 18 headquarters and not at store level 19 (end of reading). 20 Now, that's what we were talking about. You 21 were addressing the headquarters as opposed to the 22 individual stores when it came to the big national 23 accounts; true? 24 A. We used the headquarters. 25 Q. She then says:</p>	<p style="text-align: right;">Page 192</p> <p>1 headquarters of the national chain had done their due 2 diligence -- had done their due diligence; is that 3 correct? 4 A. It is -- it is correct that we 5 utilized the retail national chains' headquarters 6 regulatory and oversight groups to assist us in 7 ensuring that any threshold increases were 8 appropriate. 9 Q. And you would assume that they did 10 their due diligence when saying a threshold increase 11 is okay, according to -- at least to Elaine Thomet? 12 A. Based -- based on our discussions 13 with headquarters and understanding what their 14 internal procedures were and how they conducted 15 oversight of their pharmacies, yes. 16 Q. No prescribing data was required to 17 grant a threshold increase for the pharmacy at a 18 large chain; correct? We just went through that. 19 True? 20 A. No. 21 MS. HENN: Objection to form. 22 BY MR. KENNEDY: 23 Q. And so McKesson, when increasing the 24 threshold of a pharmacy at a large chain, had no 25 direct knowledge of the physicians who were writing</p>
<p style="text-align: right;">Page 191</p> <p>1 (Reading) After their thresholds have 2 been initially set up, based on their 3 required usage data or historical 4 data, if they were a customer back 5 when we implemented the CSMP, then any 6 time they exceed their threshold, we 7 review it and working with their 8 headquarters and our regulatory team, 9 determine if the store should be 10 allowed an increase. If the HQs 11 agreed, then the presumption is made 12 that they have done their due 13 diligence. It also means that we are 14 not talking to the direct purchaser -- 15 that's the individual pharmacy -- but, 16 rather, a representative from 17 headquarters, preferably in Regulatory 18 Loss Prevention, Asset Control, 19 et cetera (end of reading). 20 Do you see that? 21 A. Yes. 22 Q. And was that basically then the 23 practice? If headquarters said a threshold increase 24 is okay, there was at least -- in the words of 25 Ms. Thomet, there was a presumption that the</p>	<p style="text-align: right;">Page 193</p> <p>1 the prescriptions at the pharmacies for the large 2 national accounts; true? 3 A. That is -- that is correct. 4 Q. You weren't able to check to see if 5 any of these physicians had an issue with a medical 6 board in the large national chains, correct, because 7 you didn't have their identity? Couldn't do that; 8 true? 9 MS. HENN: Objection to form. Calls for 10 speculation. 11 BY MR. KENNEDY: 12 Q. Correct? 13 A. It is probably more accurate to state 14 that we did not have the detail of their -- of their 15 prescriptions and the items that would be included in 16 that prescription data. 17 Q. All right. And that would include 18 the identity of the doctor; correct? 19 A. Presumably, yes. 20 Q. It would include the data that would 21 allow you to accurately run percentages on controlled 22 purchases versus non-controlled purchases; correct? 23 MS. HENN: Objection to form. 24 THE WITNESS: We wouldn't have that ability. 25 ///</p>

<p style="text-align: right;">Page 194</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. And you wouldn't have the ability,</p> <p>3 with respect to the large chains, to make a</p> <p>4 determination as to whether or not they were -- they</p> <p>5 were doing business with pain clinics; right? You</p> <p>6 wouldn't be able to -- you wouldn't know that because</p> <p>7 you don't know who they are selling to; true?</p> <p>8 MS. HENN: Objection to form.</p> <p>9 THE WITNESS: We wouldn't -- without the --</p> <p>10 we wouldn't have their prescription data.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. So you wouldn't -- you wouldn't know</p> <p>13 whether they were selling to pain clinics, would you,</p> <p>14 these large -- these large national accounts?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 THE WITNESS: We -- we wouldn't know from</p> <p>17 the data whether they are were selling to pain</p> <p>18 clinics. I wouldn't state that we wouldn't</p> <p>19 necessarily -- we may find out some other -- an other</p> <p>20 way, but generally the data within the potential</p> <p>21 indicator.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Well, you wouldn't have any</p> <p>24 systematic, regular way to check up on all of the</p> <p>25 different pharmacies at the big retail accounts to</p>	<p style="text-align: right;">Page 196</p> <p>1 MS. HENN: Counsel, let me just ask the</p> <p>2 videographer, could you please close the door. Thank</p> <p>3 you.</p> <p>4 Could you go ahead and repeat that. I'm</p> <p>5 sorry.</p> <p>6 MR. KENNEDY: Yes.</p> <p>7 Q. This email is being sent out by you</p> <p>8 in 2012, it looks like, to the DRAs, the Directors of</p> <p>9 Regulatory Affairs, and -- maybe just Directors of</p> <p>10 Regulatory Affairs; right?</p> <p>11 A. It appears to be restricted to the</p> <p>12 regulatory team.</p> <p>13 Q. And if you want to look at -174.</p> <p>14 And, again, this is something -- is this a slide,</p> <p>15 sir, that you would have prepared?</p> <p>16 A. Yes.</p> <p>17 Q. And at -174, in your slide show, "How</p> <p>18 the DEA sees it." Does it state:</p> <p>19 (Reading) The illicit pain clinics,</p> <p>20 the pharmacies that fill their</p> <p>21 scripts, and the wholesaler</p> <p>22 distributors who supply pharmacies</p> <p>23 without appropriate due diligence have</p> <p>24 caused and continue to cause millions</p> <p>25 of dosage units of oxycodone and other</p>
<p style="text-align: right;">Page 195</p> <p>1 determine who their customers were and as to whether</p> <p>2 or not they were pain clinics? That's accurate?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. Right?</p> <p>6 A. Generally we -- we would not.</p> <p>7 Q. And the DEA had informed McKesson,</p> <p>8 had they not, that a list of pain clinics were a big</p> <p>9 problem in our country? They had told you that; had</p> <p>10 they not?</p> <p>11 MS. HENN: Objection to form. Lacks</p> <p>12 foundation.</p> <p>13 THE WITNESS: In a prior meeting and some</p> <p>14 communications, the DEA identified pain clinics.</p> <p>15 MR. KENNEDY: Let me show you Exhibit 752.</p> <p>16 (Exhibit No. 752 was marked.)</p> <p>17 MR. KENNEDY: 752 is Bates -498169 to -183.</p> <p>18 Q. This is an email from you; is it not?</p> <p>19 A. Yes.</p> <p>20 Q. Dated May 2nd, 2012; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And it looks like you're sending it</p> <p>23 out to a variety of the Directors of Regulatory</p> <p>24 Affairs and folks in somewhat management positions as</p> <p>25 it relates to Regulatory Affairs; right?</p>	<p style="text-align: right;">Page 197</p> <p>1 controlled substances to be diverted</p> <p>2 and pose an imminent threat to the</p> <p>3 public health and safety (end of</p> <p>4 reading).</p> <p>5 Is that in your slide show?</p> <p>6 A. Yes, it is.</p> <p>7 Q. And with respect to the big chain</p> <p>8 pharmacies, McKesson was not on any regular basis</p> <p>9 getting the dispensing data that would have told them</p> <p>10 whether or not these big chain pharmacies were</p> <p>11 selling to pain clinics; is that right?</p> <p>12 A. We did not get the dispensing data.</p> <p>13 We relied on the chain's regulatory and loss</p> <p>14 prevention groups to understand their patient base.</p> <p>15 Q. Without the prescribing data from a</p> <p>16 chain pharmacy, the big chains, the CVSes, the</p> <p>17 Walmarts, you wouldn't have enough detail to identify</p> <p>18 whether or not physicians have been prescribing</p> <p>19 what's been called the trinity of opioids, would you,</p> <p>20 a combination of drugs that indicate diversion? You</p> <p>21 wouldn't be able to know and understand that; would</p> <p>22 you?</p> <p>23 MS. HENN: Objection to form. Lacks</p> <p>24 foundation.</p> <p>25 THE WITNESS: The --</p>

<p style="text-align: right;">Page 198</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. You wouldn't have that info; would</p> <p>3 you?</p> <p>4 MS. HENN: Same objections.</p> <p>5 THE WITNESS: We would not have the detail</p> <p>6 of prescription by doctor.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. Mr. Walker, not only did McKesson</p> <p>9 have the duty to know its customer, the pharmacy, but</p> <p>10 McKesson had the duty to know its customers'</p> <p>11 customer; right?</p> <p>12 MS. HENN: Objection to form. Lacks</p> <p>13 foundation.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. Not just the duty to know the</p> <p>16 pharmacy, but you had to know the pharmacy's</p> <p>17 customers? That was part of your obligation with the</p> <p>18 DEA; was it not?</p> <p>19 MS. HENN: Objection to form. Lacks</p> <p>20 foundation.</p> <p>21 THE WITNESS: No, our -- our responsibility</p> <p>22 was to continue to adhere to the regulations</p> <p>23 associated with distribution and handling of</p> <p>24 controlled substances.</p> <p>25 ///</p>	<p style="text-align: right;">Page 200</p> <p>1 and then underneath the big arrow it says,</p> <p>2 "Regulatory Burden"? And your statement to all of</p> <p>3 the Directors in Regulatory Affairs, "Know your</p> <p>4 customer and your customer's customer"; is that your</p> <p>5 slide?</p> <p>6 MS. HENN: Objection. Asked and answered.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. Is that your slide?</p> <p>9 A. This is -- this is a slide that I</p> <p>10 created.</p> <p>11 Q. And without prescribing data from the</p> <p>12 16,000 individual pharmacies that were part of the</p> <p>13 big chain pharmacy accounts, there is no way for</p> <p>14 McKesson to know its customer's customer; is there?</p> <p>15 MS. HENN: Objection to form. Lacks</p> <p>16 foundation.</p> <p>17 THE WITNESS: Without prescribing data from</p> <p>18 the national accounts, we would not have the elements</p> <p>19 of prescription data that we have outlined before.</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. You had no -- with respect to the big</p> <p>22 chain pharmacies, no direct communication with their</p> <p>23 individual pharmacies? You didn't call [sic] up the</p> <p>24 phone and call the pharmacy and charge at an</p> <p>25 individual McKesson pharmacy; correct? You dealt</p>
<p style="text-align: right;">Page 199</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Sir, look at the very next page of</p> <p>3 your slide -- your slide presentation, -175, the very</p> <p>4 next page. It says, "DEA Registrants" at the top;</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. This is your presentation. Then the</p> <p>8 first box on the left, does it state, "Know your</p> <p>9 customer and your customer's customer"? Is that what</p> <p>10 your presentation states?</p> <p>11 A. Yes, it does.</p> <p>12 Q. And that was your obligation at</p> <p>13 McKesson; was it not?</p> <p>14 MS. HENN: Objection to form. Lacks</p> <p>15 foundation.</p> <p>16 THE WITNESS: I would more accurately define</p> <p>17 this as our effort to ensure that we were doing</p> <p>18 everything that we could to manage the distribution</p> <p>19 of controlled substances. There -- there was not a</p> <p>20 regulatory requirement to know our customer, our</p> <p>21 customer's customer, but clearly there is an</p> <p>22 opportunity for us to do everything we can to support</p> <p>23 the DEA in their enforcement actions.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. Doesn't it say, "DEA Registrants,"</p>	<p style="text-align: right;">Page 201</p> <p>1 with headquarters?</p> <p>2 MS. HENN: Objection to form.</p> <p>3 THE WITNESS: I can't testify that we never</p> <p>4 contacted an individual pharmacy. But generally our</p> <p>5 policy was to work with the chain headquarters.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. And the Directors of Regulatory</p> <p>8 Affairs, and the folks that worked for them, they</p> <p>9 didn't get in their cars on a regular basis and</p> <p>10 physically visit the pharmacies of the big chain</p> <p>11 pharmacies; correct?</p> <p>12 A. Again, I can't say that it never</p> <p>13 occurred. But generally we did not conduct site</p> <p>14 visits at the chain pharmacies.</p> <p>15 Q. So the big chain pharmacies represent</p> <p>16 16,000 individual pharmacies. And I can't remember</p> <p>17 if we agreed to that number. Does that sound about</p> <p>18 right, 16,000 individual pharmacies for the big</p> <p>19 national chains?</p> <p>20 MS. HENN: Objection to form. Lacks</p> <p>21 foundation.</p> <p>22 THE WITNESS: I didn't -- I didn't agree or</p> <p>23 disagree. I just don't know.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. All right. But essentially McKesson</p>

<p style="text-align: right;">Page 202</p> <p>1 was allowing the big chain pharmacies to monitor 2 themselves with respect to threshold increases? 3 MS. HENN: Objection to form. Lacks 4 foundation. 5 THE WITNESS: We relied on the resources 6 that were in the chain pharmacies, with the stated 7 responsibility for their regulatory compliance, to 8 help us in ensuring that their pharmacies were 9 executing appropriately. 10 BY MR. KENNEDY: 11 Q. Well, let me ask, did McKesson ever 12 think that -- let's say, for example, did they ever 13 think that CVS would report themselves to the DEA? 14 A. I'm not sure I understand that 15 question. 16 Q. Did McKesson ever believe that CVS, 17 for example, CVS headquarters, would report one of 18 their own pharmacies to the DEA? 19 A. I can't answer the question. I 20 don't -- I don't know. 21 Q. I mean, did CVS ever sit there and 22 say, well, we think that CVS headquarters will 23 contact the DEA and tell them we have a pharmacy in 24 West Virginia that is violating the law, and we think 25 you should close them down? Do you think that they</p>	<p style="text-align: right;">Page 204</p> <p>1 would be with the chain -- the chain headquarters. 2 Q. And then as we read in the email, 3 McKesson would presume that the headquarters did 4 their due diligence with respect to that pharmacy 5 that ordered over their threshold? There would be 6 that presumption on the part of McKesson? 7 MS. HENN: Objection to form. Lacks 8 foundation. 9 THE WITNESS: We -- we would rely on the 10 chain headquarter's regulatory oversight to assist 11 us, yes. 12 MR. KENNEDY: Give me 684. 13 (Exhibit No. 684 was marked.) 14 MR. KENNEDY: I am going to show you 15 Exhibit 684, which is McKesson -513746. 16 BY MR. KENNEDY: 17 Q. This is an email from Elaine Thomet. 18 And I believe her title was Director of RNA Support 19 Solutions. Does that sound right? 20 A. Hang on just a moment. Let me take a 21 real quick look. 22 To answer your first question, her title is 23 Director of Business Process. 24 Q. Oh, right. So she would understand 25 the process of what you folks were doing? That's</p>
<p style="text-align: right;">Page 203</p> <p>1 would ever do that? 2 MS. HENN: Objection to form. Calls for 3 speculation. 4 THE WITNESS: Again, I can't answer what CVS 5 would or would not do with information that they 6 received. 7 BY MR. KENNEDY: 8 Q. Let's talk about Level 1 9 investigations. That's the investigation that would 10 take place after -- after an individual pharmacy 11 would place an order that exceeded their threshold; 12 correct? 13 A. Yes. 14 Q. And, again, I want to focus on the 15 national chains. So if a -- if a small 16 independent -- if a small independent chain ordered 17 over their threshold, McKesson would contact that 18 individual pharmacy directly; true? That was the 19 policy? 20 A. Yes, that's correct. 21 Q. But if the -- but if an individual 22 pharmacy from a big national chain ordered over their 23 opioid threshold, then McKesson would contact the 24 national headquarters of the chain; true? 25 A. If we were to make the contact, it</p>	<p style="text-align: right;">Page 205</p> <p>1 kind of what her job was, the process? 2 A. I believe that she understood our 3 processes. 4 Q. She sends an email on January 2, 5 2013. All right. And the subject is, "CSMP Level 1 6 Reviews required for all RNAs - effective 7 immediately." 8 And the RNA are the regional national 9 accounts; right? 10 A. Yes. 11 Q. And she says: 12 (Reading) In order to be in compliance 13 with the standard operating procedures 14 without adding a daily task to 15 anyone's plate, we have developed a 16 process where just once per month a 17 report will be run that lists all of 18 the omits for the previous month (end 19 of reading). 20 Now, an omit is -- is when somebody orders 21 over their threshold; correct? 22 A. Yes. 23 Q. And she says, when -- and this is 24 about regional national accounts, the big chains; 25 correct?</p>

<p style="text-align: right;">Page 206</p> <p>1 A. Yes.</p> <p>2 Q. And she says:</p> <p>3 (Reading) Whether your customers</p> <p>4 requested increases, TCRs, Threshold</p> <p>5 Change Requests, or not, we need to</p> <p>6 ensure that they are aware of all</p> <p>7 their stores' omits (end of reading).</p> <p>8 So she's saying, you've got to make sure,</p> <p>9 for example, that CVS -- if they have a number of</p> <p>10 stores that went over their threshold, you have to</p> <p>11 make sure that their corporate headquarters knew that</p> <p>12 they had stores that went over -- over their</p> <p>13 threshold; correct? Is that what she's saying?</p> <p>14 MS. HENN: Objection to form. Lacks</p> <p>15 foundation. And mischaracterizes the document.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. Does it state, we need to ensure they</p> <p>18 are aware of all their stores' omits? Is that what</p> <p>19 it says?</p> <p>20 A. That's what the document says.</p> <p>21 Q. In the next paragraph she says:</p> <p>22 (Reading) What to do? You should see</p> <p>23 the automated monthly omit report</p> <p>24 Thursday, January 3, listing</p> <p>25 December's omits (end of reading).</p>	<p style="text-align: right;">Page 208</p> <p>1 the "Level 1 Review" box and name it</p> <p>2 your Monthly Level 1 customer review</p> <p>3 (end of reading).</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. So, basically, she is -- she is</p> <p>7 saying that when a pharmacy orders over their</p> <p>8 threshold, that all you need to do is once a month</p> <p>9 let headquarters know that they have pharmacies that</p> <p>10 have ordered over their threshold, and you don't need</p> <p>11 to do anything else; correct?</p> <p>12 MS. HENN: Objection to form.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. Is that what she's saying here?</p> <p>15 MS. HENN: Mischaracterizes the document.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. Read it again, if you need to.</p> <p>18 A. What I see that is written is that we</p> <p>19 would submit this report to the headquarters each</p> <p>20 month, and the pharmacy -- or the headquarters would</p> <p>21 have a view of all the omits by pharmacy in it. If</p> <p>22 an action needed to be taken, then -- then we could</p> <p>23 work with them to do that.</p> <p>24 Q. All right. The headquarters would</p> <p>25 decide; correct? The headquarters is going to decide</p>
<p style="text-align: right;">Page 207</p> <p>1 So that's a report that's going to list</p> <p>2 every pharmacy that went over their threshold; right?</p> <p>3 That's what that was?</p> <p>4 MS. HENN: Objection to form.</p> <p>5 Mischaracterizes the document.</p> <p>6 THE WITNESS: Hang on just a moment. Let me</p> <p>7 reread that.</p> <p>8 As I read the document, there's -- there's</p> <p>9 an automated report that is being sent to each of our</p> <p>10 national accounts --</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. And that --</p> <p>13 A. -- summarizing the omits.</p> <p>14 Q. All right. The orders over the</p> <p>15 threshold; right?</p> <p>16 And she says, then:</p> <p>17 (Reading) Please extract just your</p> <p>18 individual customer's info from this</p> <p>19 report, send to them and have them</p> <p>20 acknowledge in an email, with report</p> <p>21 attached, that they have been made</p> <p>22 aware of these omits and nothing</p> <p>23 further is required at that time.</p> <p>24 Then save the email in the CSMP</p> <p>25 database just like a TCR, but check</p>	<p style="text-align: right;">Page 209</p> <p>1 whether or not an action needs to be taken; right?</p> <p>2 Just to send them a monthly report, here's your</p> <p>3 pharmacies that have ordered over their threshold,</p> <p>4 that's what this is saying?</p> <p>5 MS. HENN: Objection to form.</p> <p>6 Mischaracterizes the document.</p> <p>7 THE WITNESS: The -- what I see is that the</p> <p>8 report that we were sending would summarize all of</p> <p>9 the omits for all of the controlled substance codes</p> <p>10 that -- where the threshold was exceeded and blocked.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. And it says, "Nothing further is</p> <p>13 required at this time"? Is that what it says?</p> <p>14 A. That's what the document says.</p> <p>15 Q. So McKesson is not doing any review,</p> <p>16 true, of these orders over the threshold; they are</p> <p>17 just sending a monthly report to the headquarters of</p> <p>18 the chain?</p> <p>19 MS. HENN: Objection to form. Lacks</p> <p>20 foundation.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. Is that correct?</p> <p>23 MS. HENN: Same objections.</p> <p>24 THE WITNESS: I don't know if there was</p> <p>25 other review conducted as a result of the reports. I</p>

<p style="text-align: right;">Page 210</p> <p>1 can't respond or answer to that. 2 What I do see is what is written. 3 BY MR. KENNEDY: 4 Q. And what is written is "Nothing 5 further is required at this time"? That is what is 6 written? 7 A. That is what is written. 8 Q. The next paragraph: 9 (Reading) If you recall, Dave 10 discussed this requirement at our 11 October meeting and mentioned that the 12 field has to complete these reviews 13 for every single omit all month long. 14 Luckily, we were able to work with the 15 regulatory team to only ask RNA to 16 complete this required review once a 17 month, per customer (end of reading). 18 Do you see that? 19 A. Yes. 20 Q. So the requirement to review each and 21 every time a pharmacy ordered over their threshold is 22 now turned into a monthly report that is being sent 23 to headquarters of the big chain; right? 24 MS. HENN: Objection to form. Lacks 25 foundation.</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. Do you remember this document? 2 A. Yes, I do. 3 Q. And this is a PowerPoint that was put 4 together for presentation to the DEA; true? 5 A. The date of this document is -- and 6 my understanding of this document, based on the date 7 here, is that it was a document that we put together 8 for a review with various DEA field offices and DEA. 9 Q. Did you prepare this? 10 A. I prepared the original, yes. 11 Q. Go to page -302, if you would. See 12 where it says, "Level 1 Review"? 13 A. Yes. 14 Q. That's what we've been talking about 15 with respect to the large chain pharmacies; right? 16 A. Yes. 17 Q. And in this presentation to the DEA, 18 does it state, "Review and Escalation. Level 1 19 Review, Actions: Direct contact customer"? 20 Well, that's not true with respect to the 21 big regional accounts, the big national accounts. 22 You contacted headquarters, you didn't contact the 23 pharmacy that ordered over the threshold; true? 24 True? 25 A. That's not accurate.</p>
<p style="text-align: right;">Page 211</p> <p>1 THE WITNESS: Again, I don't recall the 2 document and hadn't seen this email before. But we 3 were sending a monthly report summarizing omits based 4 on this document to chain headquarters. 5 BY MR. KENNEDY: 6 Q. And relying upon them to look into 7 these omits, these orders over the threshold, to see 8 if they represented anything suspicious, relying upon 9 the headquarters of the chain; true? 10 MS. HENN: Objection to form. Lacks 11 foundation. 12 THE WITNESS: We -- we were relying on their 13 regulatory teams and oversight to review and respond, 14 if required. 15 BY MR. KENNEDY: 16 Q. And what would they -- would they 17 send you back an explanation for every order over the 18 threshold? 19 MS. HENN: Objection to form. Calls for 20 speculation. 21 THE WITNESS: I don't recall any -- any 22 specific response coming back. 23 MR. KENNEDY: Let me show you Exhibit 685. 24 (Exhibit No. 685 was marked.) 25 MR. KENNEDY: 685 is Bates -498295 to -307.</p>	<p style="text-align: right;">Page 213</p> <p>1 Our relationship at a retail national 2 account level was specifically and strictly with the 3 headquarters, in all matters. 4 Q. Exactly. So the individual pharmacy, 5 the individual pharmacy that went over the threshold 6 and was subject to a Level 1 Review, they weren't 7 contacted; you contacted headquarters, correct? 8 A. That is correct. 9 Q. And it says, "You will ascertain the 10 reason for exceeding the threshold." But as you just 11 told us, corporate headquarters wouldn't even 12 necessarily get back to you as to why their 13 individual pharmacy exceeded the threshold; right? 14 A. That could occur, yes. 15 Q. It says, "Conduct analysis as 16 required." And then at the bottom, "Documentation." 17 My question is, when you made this 18 presentation to the DEA in 2008, did you tell them 19 that with respect to these Level 1 Reviews, this 20 isn't going to apply to the big national chains, 21 we're going to let them do all of this themselves? 22 Did you tell them that the big national chains 23 weren't going to be a part of these Level 1 Reviews 24 by McKesson? 25 MS. HENN: Objection to form.</p>

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1 THE WITNESS: I don't recall specifically if
 2 we had the conversation with DEA either at a local
 3 level or at headquarters level of how we were going
 4 to handle the retail national accounts.
 5 BY MR. KENNEDY:
 6 Q. Do you recall telling them, you know,
 7 we're going to let 16,000 pharmacies really kind of
 8 monitor themselves? Did you tell them that?
 9 MS. HENN: Objection to form. Lacks
 10 foundation.
 11 THE WITNESS: No, we didn't have that
 12 conversation.
 13 MR. KENNEDY: Give me 682.
 14 (Exhibit No. 682 was marked.)
 15 MR. KENNEDY: Let me show you Exhibit 682.
 16 Q. This is a graph of data that we put
 17 together, all right? And it is based upon -- I will
 18 tell you, it is based upon McKesson's transaction
 19 data and sales that they provided to us. All right?
 20 And so let me ask you, Rite Aid, was that a
 21 big national account, one of the big retail RNA
 22 accounts at McKesson?
 23 A. Rite Aid was and is a large customer
 24 of McKesson.
 25 Q. And if you look at that red line,

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1 that red line represents McKesson's average sales of
 2 oxycodone, average monthly sales of oxycodone in
 3 Cuyahoga County per store; all right?
 4 Now, this Rite Aid store, if we take March
 5 of '09 -- from the information provided to us by
 6 McKesson, it indicates that in March of '09 they
 7 ordered over their threshold 11 times. And if we
 8 look in the files of McKesson, the due diligence
 9 records, there is no documentation or explanation as
 10 to why they ordered over their thresholds. I want
 11 you to assume that.
 12 Would that be consistent with the way things
 13 were handled --
 14 MS. HENN: Objection.
 15 BY MR. KENNEDY:
 16 Q. -- if we just turn it over to the
 17 corporate headquarters and they make the
 18 determination?
 19 MS. HENN: Objection to form. Lacks
 20 foundation. And calls for speculation.
 21 THE WITNESS: Again, Counsel, we would have
 22 worked directly with their retail national account
 23 headquarters and their -- and their regulatory team.
 24 I'm not familiar with the data. I'm not familiar
 25 with the store. But we certainly on a regular basis

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1 would be in contact with Rite Aid headquarters.
 2 BY MR. KENNEDY:
 3 Q. Right. And but, again, if we have
 4 got 11 times in one month that Rite Aid ordered over
 5 their threshold for oxycodone, it wouldn't surprise
 6 you that there is no record of McKesson doing due
 7 diligence because, again, you were relying upon the
 8 headquarters of Rite Aid to do it; correct?
 9 MS. HENN: Objection to form.
 10 THE WITNESS: I have no knowledge of what
 11 documentation is out there, and so I don't think I
 12 can answer the question.
 13 BY MR. KENNEDY:
 14 Q. And we see the same thing, you know,
 15 seven in October, 23, 17, 3, 9, 8. And, again, no
 16 documentation that McKesson did any kind of Level 1
 17 Review because would it be, again, your position that
 18 you were relying upon the headquarters of Rite Aid to
 19 do that; true?
 20 A. I think my testimony is --
 21 MS. HENN: Objection to form.
 22 THE WITNESS: -- I don't know whether there
 23 would be any documentation. I'm not familiar with
 24 the store nor the documentation.
 25 Again, generally what we would do is we

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1 would work directly with Rite Aid's corporate
 2 regulatory out of headquarters.
 3 MS. HENN: And, Counsel, I will just note
 4 for the record that this data is all produced highly
 5 confidential, and this should be marked when you
 6 create exhibits with that information.
 7 So we will ask that the court reporter mark
 8 this 682 as highly confidential.
 9 BY MR. KENNEDY:
 10 Q. Let me ask you this. Maybe we can
 11 shortcut things. Did the big national chains, such
 12 as CVS and Walmart and Rite Aid, did they represent,
 13 then, to McKesson that they would review their own
 14 pharmacies when their own pharmacy exceeded a
 15 threshold and you notified them?
 16 MS. HENN: Oxycodone.
 17 BY MR. KENNEDY:
 18 Q. Was that the understanding, the
 19 representation?
 20 MS. HENN: Same objection.
 21 THE WITNESS: I think it's better said that
 22 we understood that they would -- had their own
 23 internal reports and mechanisms to monitor and
 24 evaluate their own pharmacies' distribution of
 25 controlled substances, and we relied on their

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1 resources and their expertise and their data that
 2 they had and kept internally to manage that.
 3 BY MR. KENNEDY:
 4 Q. But, again, you were relying upon
 5 their representation of their monitoring programs,
 6 but -- because you didn't hire people to sneak into
 7 their offices and look at their monitoring programs?
 8 They provided you with the statements that they were
 9 monitoring; correct?
 10 MS. HENN: Objection to form. Lacks
 11 foundation.
 12 THE WITNESS: Our -- our discussions with
 13 our national account customers, in each of those they
 14 would describe to us, and we would have discussions
 15 around the processes that they used, and we -- again,
 16 we utilized them heavily to -- as resources that were
 17 available to help us in managing our overall
 18 Controlled Substance Monitoring Program.
 19 MR. KENNEDY: Give me 678.
 20 (Exhibit No. 678 was marked.)
 21 BY MR. KENNEDY:
 22 Q. I am going to show you Exhibit 678,
 23 which we don't have Bates numbers on. Let me give
 24 you this. It's 445881-4.
 25 If you go down to the bottom, this is an

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1 email by Elaine Thomet again, July 17, 2014. I want
 2 to see if you agree with this. Do you see the second
 3 page?
 4 A. Hang on just a moment. Let me just
 5 take a quick look.
 6 Okay. Counsel, you directed me to the
 7 second page?
 8 Q. Yes. Look at the second page, the
 9 big letters. I mean, you just looked at it. She
 10 is -- she's talking about setting up informational
 11 phone calls; is she not?
 12 A. Yes.
 13 Q. And look at "The Call/Web-Ex." Does
 14 she state that, "Due to the nature of centralized
 15 management within chains" -- and she's talking about
 16 the big accounts, the big national chains; right?
 17 A. Yes.
 18 Q. (Reading) Due to the nature of
 19 centralized management within chains,
 20 RNA -- that's McKesson -- has the
 21 ability to partner with our chain
 22 customers to act somewhat as our proxy
 23 in regards to regulatory oversight of
 24 their stores. Unlike the ISMC --
 25 that's the smaller ones -- this allows

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1 us to avoid the need to interview and
 2 visit all 16K RNA stores individually
 3 every one to three years, as we are
 4 able to interview the main customer
 5 authorities with regulatory oversight
 6 of their stores (end of reading).
 7 Is that basically what you have been saying
 8 as to -- as to how you addressed chains, the big
 9 national chains?
 10 MS. HENN: Objection to form.
 11 THE WITNESS: We relied on the national
 12 chains' headquarters, because all the national chains
 13 had standard operating procedures and centralized
 14 oversight in their business model. And our -- our
 15 view was that if you go to one CVS store, you see all
 16 the CVS stores or all the Rite Aid stores because
 17 they had very, very tight controls over how they
 18 managed their business.
 19 BY MR. KENNEDY:
 20 Q. Well, let me just -- well, first,
 21 tight controls. You understand CVS was fined
 22 \$130 million with respect to violations of the
 23 Controlled Substances Act, \$130 million fines, as you
 24 tell us they had these very, very tight controls?
 25 You knew that in your position, didn't you?

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1 MS. HENN: Objection to form. Lacks
 2 foundation.
 3 BY MR. KENNEDY:
 4 Q. You knew that; did you not?
 5 A. I was aware CVS had paid some
 6 penalties. I don't recall the amount nor do I recall
 7 the events or the issues.
 8 Q. And Ms. Thomet, what she says is
 9 McKesson is giving its proxy to the big national
 10 chains with respect to regulatory oversight? Does
 11 she use the word "proxy"?
 12 A. That is what is written.
 13 Q. And proxy means you are giving
 14 someone else authority to act for you; is that what
 15 it means?
 16 MS. HENN: Objection to form. Calls for
 17 speculation.
 18 THE WITNESS: Generally, I would understand
 19 that.
 20 BY MR. KENNEDY:
 21 Q. And look where she says now, "The
 22 Data." Do you see that, "The Data"?
 23 And does she state:
 24 (Reading) We need to ask them to
 25 provide three months' dispense data

<p style="text-align: right;">Page 222</p> <p>1 using the form specifically developed 2 for RNA customers, attached. That 3 form can be sent to the customer. The 4 data portion we're looking for them to 5 provide is simple: DEA number, store 6 name, total prescription doses 7 dispensed by the DEA registrant for a 8 three-month period (excluding liquids, 9 patches, powders and inhalers and 10 non-Rx). This data, which only they 11 can provide, simply gives us a better 12 understanding of their pharmacy size 13 and is an important part of your 14 equations when determining percentage 15 controls to total Rx, for example. If 16 we were their sole provider, we could 17 potentially rely on our data alone, 18 but often that is not the case with 19 RNA customers, which is why we need 20 them to provide their total dispense 21 database (end of reading). 22 Do you see that? 23 A. I see that written. 24 Q. It's 2014, all right, when she is 25 saying that. 2014 is the date of this, is it not,</p>	<p style="text-align: right;">Page 224</p> <p>1 MS. HENN: Mischaracterizes the document. 2 THE WITNESS: I think better -- a better 3 characterization there is that it was eight years 4 after DEA identified issues with Internet pharmacies. 5 They didn't reveal all of this -- these issues. 6 And, frankly, as we evolved our program and 7 gained additional information and additional 8 knowledge and ability to utilize data, we expanded 9 our enforcement and -- well, not enforcement, but our 10 oversight effort in every way that we could. 11 BY MR. KENNEDY: 12 Q. Sir, the DEA said it in 2006, it was 13 required for the smaller chains by '12, and there's 14 no requirement, at least according to the documents 15 we're looking at, until 2014 with respect to the big 16 national accounts; right? 17 MS. HENN: Objection to form. Lacks 18 foundation. Mischaracterizing numerous documents. 19 THE WITNESS: Again, as -- as the program 20 evolved and we identified additional information and 21 areas that we needed to focus, we modified our 22 program and our request for data. 23 BY MR. KENNEDY: 24 Q. And it took you eight years? 25 MS. HENN: Same objection.</p>
<p style="text-align: right;">Page 223</p> <p>1 for this educational webinar? 2 MS. HENN: Objection to form. 3 BY MR. KENNEDY: 4 Q. Is that right? 5 MS. HENN: Mischaracterizes the document. 6 BY MR. KENNEDY: 7 Q. 2014? 8 A. The document is dated in 2014. 9 Q. And that's two years after the 10 documents we just looked at saying dispensing data is 11 a must, it's required for the independent and small 12 chains; right? This is two years later? 13 MS. HENN: Objection to form. 14 Mischaracterizing the document. 15 BY MR. KENNEDY: 16 Q. Is that right? 17 A. This -- this document is two years 18 after the documents we reviewed earlier. 19 Q. And it's eight years after the DEA 20 told McKesson this is what diversion looks like; 21 right? Eight years? 22 MS. HENN: Objection to form. Lacks 23 foundation. 24 BY MR. KENNEDY: 25 Q. Eight years, sir?</p>	<p style="text-align: right;">Page 225</p> <p>1 BY MR. KENNEDY: 2 Q. Eight years to modify your program 3 after being told by the DEA this is important 4 information to have in identifying suspicious orders 5 and diversion; correct? 6 MS. HENN: Objection. Lacks foundation. 7 Mischaracterizes the documents. 8 BY MR. KENNEDY: 9 Q. Is that right, sir, eight years to 10 develop it? 11 A. It is eight years between 2006 and 12 2014. But it is not correct that DEA identified all 13 the issues and all the information that we have 14 discussed in terms of prescription data. And during 15 that time frame, prescription data resources and 16 capabilities increased significantly with technology. 17 Q. You've said over and over that this 18 reliance upon the headquarters of the big national 19 chains was based upon the fact that they had their 20 own monitoring program, their own Controlled 21 Substance Monitoring Program; is that what I have 22 heard you say? 23 A. More accurately, they had better data 24 and regulatory oversight. We were never made privy 25 to the specifics of their programs. The chains</p>

<p style="text-align: right;">Page 226</p> <p>1 considered their data to be very proprietary and, as 2 a result, we reviewed it at a high level. 3 Q. They never told you -- you relied 4 upon the fact that they had their own Controlled 5 Substances Monitoring Program, but they didn't give 6 you the detail of those programs ever; did they? 7 MS. HENN: Objection to form. Lacks 8 foundation. And mischaracterizes testimony. 9 THE WITNESS: To my knowledge, we never had 10 any detailed specifics from a chain on their -- on 11 their programs, due to their proprietary view of 12 their data. 13 BY MR. KENNEDY: 14 Q. Sir, let me ask you this. You're 15 familiar with the Controlled Substance Act of 1970; 16 is that right? 17 A. Yes. 18 Q. And then the regulations we've talked 19 about after that relating to suspicious order 20 monitoring that came into effect, I think, in 1971? 21 We spoke about that regulation; true? 22 A. Yes, I'm familiar with that. 23 Q. Did the United States Congress ever 24 say that McKesson could give the pharmacies and the 25 big national accounts their proxy and allow them to</p>	<p style="text-align: right;">Page 228</p> <p>1 BY MR. KENNEDY: 2 Q. Sir, a pharmacy is not a distributor; 3 correct? 4 MS. HENN: Objection to form. 5 BY MR. KENNEDY: 6 Q. With respect to what we're talking 7 about, some of the pharmacies would distribute to 8 themselves. But outside of that, what we're talking 9 about is, let's say, pharmacies that are not 10 self-warehousing, they have a duty and a 11 responsibility under the law as a pharmacy; correct? 12 MS. HENN: Objection to form. 13 BY MR. KENNEDY: 14 Q. Is that right? 15 MS. HENN: Lacks foundation. 16 THE WITNESS: I'm not familiar with pharmacy 17 legal requirements. I understand distributor. 18 BY MR. KENNEDY: 19 Q. All right. But didn't you just tell 20 us you, as a distributor, were relying upon the 21 pharmacy and what they were required to do under the 22 law? 23 MS. HENN: Same objections. 24 BY MR. KENNEDY: 25 Q. And now you don't know what their</p>
<p style="text-align: right;">Page 227</p> <p>1 monitor themselves? Did Congress ever state that? 2 MS. HENN: Objection to form. Calls for 3 speculation. 4 THE WITNESS: Ask the question again, 5 Counsel. I'm not sure I understand what you're 6 asking. 7 BY MR. KENNEDY: 8 Q. Did Congress ever tell McKesson -- we 9 know what it enacted in 1970, the Controlled 10 Substances Act. But did they ever enact anything 11 thereafter that told McKesson, you can give 12 pharmacies in the big national accounts your proxy to 13 do your due diligence as it relates to Regulatory 14 Affairs over controlled substances? Did Congress 15 ever tell McKesson that? 16 MS. HENN: Objection to form. 17 THE WITNESS: The regulation required that 18 we operate a system to identify suspicious orders and 19 have systems to prevent the diversion of controlled 20 substances. We utilized the -- and the pharmacies 21 and the chains as a registrant had the same 22 responsibility. So we relied upon their 23 responsibility and their tools to assist us in 24 ensuring that we were complying. 25 ///</p>	<p style="text-align: right;">Page 229</p> <p>1 requirements are? 2 A. What I was answering was the chains 3 that we're discussing were self-warehousing chains 4 and had a distributor registration as well as a 5 pharmacy registration. 6 Q. But they would monitor the drugs they 7 were distributing, but they weren't monitoring the 8 drugs they were buying from you? 9 MS. HENN: Objection to form. Lacks 10 foundation. 11 THE WITNESS: Again, we utilized -- because 12 they had processes and systems and data in place, we 13 utilized strongly their resources to help us in 14 overseeing and managing the distribution of 15 controlled substances to their pharmacies. 16 BY MR. KENNEDY: 17 Q. You understand that the 18 responsibilities under the law for a pharmacy to 19 prevent a diversion is different than the 20 responsibilities under the law of a distributor? 21 They are different; correct? 22 A. I don't understand specifically the 23 regulations associated with pharmacy. I've never 24 reviewed them. But generally I understand that they 25 are different.</p>

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1 Q. Right. And the way Congress set this
 2 up, because they did not want a crisis, is they gave
 3 responsibilities to the distributors, and they gave a
 4 separate responsibility to the pharmacies, a belt and
 5 a suspenders? It wasn't one or the other. Congress
 6 wanted both to have responsibilities to prevent the
 7 diversion of dangerous drugs into the communities;
 8 right? A separate set of responsibilities for each;
 9 correct?

10 MS. HENN: Objection to form.

11 THE WITNESS: Again, I -- I don't know what
 12 Congress's intent necessarily was. I understand the
 13 regulation.

14 BY MR. KENNEDY:

15 Q. And you understand the regulation
 16 gave a responsibility and a set of responsibilities
 17 to the two different entities? Distributors, you've
 18 got your jobs, and pharmacies, you have your job;
 19 correct?

20 A. I understand the distributor
 21 responsibilities.

22 Q. Nowhere did it ever say that if the
 23 pharmacy has responsibility, us as distributors, we
 24 don't have any responsibility to prevent diversion?
 25 That has never been stated anywhere; correct?

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1 MS. HENN: Objection to form.

2 THE WITNESS: Again, I -- the regulations
 3 are very clear what our responsibilities are.

4 MS. HENN: Counsel, is this another good
 5 time for a break? It's been an hour.

6 MR. KENNEDY: Give me five minutes.

7 MS. HENN: Are you comfortable going five
 8 minutes?

9 THE WITNESS: That's fine.

10 MR. KENNEDY: Let me show you Exhibit 674,
 11 if I could.

12 MS. HENN: Thank you.
 13 (Exhibit No. 674 was marked.)

14 BY MR. KENNEDY:

15 Q. This is Bates -507218 to -507220.
 16 This is an email from Michael Oriente, if you look at
 17 the top. Who is Michael Oriente?

18 A. Michael Oriente was -- was and is the
 19 Director of Regulatory Affairs for the East Region --
 20 Northeast Region.

21 Q. So a big responsibility. He's one of
 22 four/six people; correct?

23 A. Yes, at that point in time.

24 Q. And at this point in time, he is also
 25 responsible for managing and monitoring some of the

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1 large national chains; true?

2 A. Yes.

3 Q. And this is April of 2011. And does
 4 he state, "Dave" -- and he's sending an email to Dave
 5 Gustin, who is another Regulatory Affairs person;
 6 right? He's in the Midwest; right?

7 A. Yes.

8 Q. He also has some responsibility for
 9 these big national chains; right?

10 A. Yes.

11 Q. And does he state, "Dave, can you ask
 12 RNA" -- and that's the regional national account
 13 portion of McKesson; right?

14 A. Yes.

15 Q. "Can you ask RNA to provide a contact
 16 person for each chain?"

17 Does it look like he doesn't even know who
 18 to contact? He's a Director of Regulatory Affairs,
 19 he's managing certain big national accounts, and he's
 20 asking for the contact person at the chain; is he
 21 not? Is that what that says?

22 "Can you ask RNA" -- a part of McKesson --
 23 "to provide a contact person for each chain?" Is
 24 that how he starts the email?

25 A. Yes, it's what's written here.

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1 Q. And then does he say:
 2 (Reading) They could add it to our
 3 DRA, Director of Regulatory Affairs,
 4 RNA sheet that lists which of us has
 5 what chain and if any chain has a
 6 documented Controlled Substance
 7 Monitoring Program process that they
 8 could share with us so we could better
 9 understand what they are doing on
 10 their side for compliance (end of
 11 reading).

12 Is that what he says?

13 A. That's what's written.

14 Q. So here's a Director of Regulatory
 15 Affairs that is monitoring large national chains, and
 16 number one, he doesn't even know who to contact at
 17 the national chains; and, number two, he's asking
 18 whether or not they even have a documented Controlled
 19 Substance Monitoring Program. Isn't that what he's
 20 asking?

21 MS. HENN: Objection to form.

22 BY MR. KENNEDY:

23 Q. Right?

24 MS. HENN: Lacks foundation.

25 ///

<p style="text-align: right;">Page 234</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Is that correct, sir?</p> <p>3 A. That's what is written here, is that</p> <p>4 request.</p> <p>5 Q. And do you know he was responsible</p> <p>6 for CVS for a certain portion of time; did you know</p> <p>7 that?</p> <p>8 A. I don't recall.</p> <p>9 Q. He was in charge of Rite Aid for a</p> <p>10 certain portion of time; do you know that?</p> <p>11 A. I do recall he had responsibility for</p> <p>12 Rite Aid.</p> <p>13 Q. Kroger's?</p> <p>14 A. Again, I don't remember all the ones</p> <p>15 that he had.</p> <p>16 Q. Costco; do you remember that?</p> <p>17 MS. HENN: Objection to form. Lacks</p> <p>18 foundation.</p> <p>19 THE WITNESS: Again, I don't -- I don't</p> <p>20 recall specifically.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. So McKesson is relying upon these</p> <p>23 large national chains to do their own monitoring, and</p> <p>24 then the person at McKesson who is in charge of</p> <p>25 various national chains doesn't even know who to</p>	<p style="text-align: right;">Page 236</p> <p>1 MS. HENN: Objection to form. Lacks</p> <p>2 foundation.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. Isn't that what this is saying at</p> <p>5 this moment in time?</p> <p>6 A. No, that's not accurate. I don't</p> <p>7 believe that this is that at all. I think he is</p> <p>8 ensuring that he has right information.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. Would you agree with me that he's</p> <p>11 asking, hey, do any of these chains actually have a</p> <p>12 documented CSMP, Controlled Substance Monitoring</p> <p>13 Program? Isn't he asking that? Could somebody tell</p> <p>14 me?</p> <p>15 MS. HENN: Objection to form.</p> <p>16 Mischaracterizing the document.</p> <p>17 BY MR. KENNEDY:</p> <p>18 Q. Right?</p> <p>19 A. Again, what is written is a request</p> <p>20 if they have a documented CSMP process that they</p> <p>21 could share.</p> <p>22 Q. The process that you tell me that</p> <p>23 McKesson is relying upon when it gives its proxy of</p> <p>24 due diligence to these big national accounts; right?</p> <p>25 MS. HENN: Objection to form.</p>
<p style="text-align: right;">Page 235</p> <p>1 contact, doesn't even know if they have a documented</p> <p>2 monitoring program; right?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. Isn't that what this is saying to us?</p> <p>6 MS. HENN: Lacks foundation.</p> <p>7 THE WITNESS: No, I don't think that's</p> <p>8 accurate, as I read this.</p> <p>9 What I understand it to mean is more of an</p> <p>10 update of who the contact people are in the chains.</p> <p>11 I mean, people move around in the chain headquarters</p> <p>12 constantly. And he's simply, as I'm reading this,</p> <p>13 was trying to determine whether there was other</p> <p>14 information that we could use in our ongoing effort</p> <p>15 to manage our controlled substance program.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. Well, at this point in time -- maybe</p> <p>18 there's been change, maybe people are moving around,</p> <p>19 but this man, in charge of CVS and Rite Aid and</p> <p>20 Costco and Krogers, he doesn't even know who to call;</p> <p>21 right?</p> <p>22 MS. HENN: Objection.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. At this point he doesn't even know</p> <p>25 who to call?</p>	<p style="text-align: right;">Page 237</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Isn't that right?</p> <p>3 A. No, that's not accurate. We -- we</p> <p>4 utilize the retail national account headquarters, as</p> <p>5 I said. We didn't necessarily review or have</p> <p>6 available to us the documentation they had. We had</p> <p>7 interactions with them and confidence in their</p> <p>8 ability to oversee their pharmacies.</p> <p>9 Q. Well, not so much interaction that</p> <p>10 Mr. Oriente even knows who to call; right?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: Again, I think it's simply, as</p> <p>13 I read this and understand the question, is more of</p> <p>14 an update and clarification of who the contact people</p> <p>15 are.</p> <p>16 MS. HENN: Go off the record.</p> <p>17 THE VIDEOGRAPHER: We are going off the</p> <p>18 record. The time is 2:29 p.m.</p> <p>19 (Recess taken.)</p> <p>20 THE VIDEOGRAPHER: We are back on the</p> <p>21 record. The time is 2:46 p.m.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Mr. Walker, we have been talking</p> <p>24 about the large national --</p> <p>25 THE VIDEOGRAPHER: Sorry, Counsel, your</p>

<p style="text-align: right;">Page 238</p> <p>1 microphone.</p> <p>2 MR. KENNEDY: Oh, yeah.</p> <p>3 Q. All right. Let me start all over.</p> <p>4 Mr. Walker, we have been talking about the large</p> <p>5 national accounts, and I want to talk specifically</p> <p>6 about CVS; all right?</p> <p>7 A. Okay.</p> <p>8 Q. CVS was a large national account;</p> <p>9 were they not?</p> <p>10 A. CVS is a large national retail chain.</p> <p>11 Q. More than that, CVS, certainly while</p> <p>12 you were at McKesson, was -- they were McKesson's</p> <p>13 largest customer; were they not?</p> <p>14 MS. HENN: Objection to form. Lacks</p> <p>15 foundation.</p> <p>16 THE WITNESS: I don't recall specifically</p> <p>17 where they were. They were a large customer, but we</p> <p>18 were not the sole supplier. So I don't know exactly</p> <p>19 what their position was in our business.</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. Well, you know that in the 2010,</p> <p>22 2012, 2014 era, they were a customer purchasing in</p> <p>23 excess of \$10 billion --</p> <p>24 MS. HENN: Objection to form. Lacks</p> <p>25 foundation.</p>	<p style="text-align: right;">Page 240</p> <p>1 time we were working with CVS to ensure that we had</p> <p>2 correct data to establish the thresholds for each of</p> <p>3 the pharmacies that we served.</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. Well, correct data. CVS refused to</p> <p>6 give you dispensing data; didn't they? Despite</p> <p>7 repeated asks, CVS refused to give McKesson their</p> <p>8 dispensing data; true?</p> <p>9 MS. HENN: Objection to form. Lacks</p> <p>10 foundation.</p> <p>11 THE WITNESS: I don't think that is</p> <p>12 accurate. What I believe CVS's discussion was, was</p> <p>13 more around their sales data. And we -- to my</p> <p>14 knowledge, we never requested any prescription data</p> <p>15 from them.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. Sales data, that would tell you</p> <p>18 exactly how much oxycodone they were selling at each</p> <p>19 particular store; correct?</p> <p>20 MS. HENN: Objection to form.</p> <p>21 THE WITNESS: Not -- not necessarily.</p> <p>22 What -- the discussions that we had with CVS were</p> <p>23 really centered around -- because they were -- in</p> <p>24 addition to being a self-warehousing national account</p> <p>25 and having other suppliers, it was really centered</p>
<p style="text-align: right;">Page 239</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. -- from McKesson? Did you know that?</p> <p>3 \$10 billion?</p> <p>4 A. I don't have any specific knowledge</p> <p>5 of what their sales volume was then.</p> <p>6 Q. In 2008, when the Controlled</p> <p>7 Substance Monitoring Program was first implemented,</p> <p>8 as we have talked about, it was based certainly in</p> <p>9 large part on a system of thresholds; true?</p> <p>10 A. Yes.</p> <p>11 Q. And do you remember yourself and</p> <p>12 others at McKesson -- McKesson having to have a lot</p> <p>13 of discussions with CVS about the implementation of</p> <p>14 this threshold system with CVS? Do you remember</p> <p>15 that?</p> <p>16 A. I -- I recall that there was a lot of</p> <p>17 interaction with CVS as we were implementing the</p> <p>18 thresholds for the national accounts.</p> <p>19 Q. Well, you remember CVS in particular</p> <p>20 was concerned about this monthly opioid threshold and</p> <p>21 it interfering with their business? Do you recall</p> <p>22 that with CVS?</p> <p>23 MS. HENN: Objection to form.</p> <p>24 THE WITNESS: What I recall is that CVS was</p> <p>25 concerned about thresholds in general. And at the</p>	<p style="text-align: right;">Page 241</p> <p>1 around our -- the information we needed to provide</p> <p>2 them with the controlled substances that they</p> <p>3 purchased from us and establishing the thresholds</p> <p>4 under the CSMP.</p> <p>5 BY MR. KENNEDY:</p> <p>6 Q. And they refused to give you the data</p> <p>7 you asked for; didn't they?</p> <p>8 MS. HENN: Objection to form. Lack of</p> <p>9 foundation.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. They refused to give you the data you</p> <p>12 asked for starting in 2008? They refused?</p> <p>13 A. I don't recall that they refused. We</p> <p>14 had a lot of discussions. I don't recall that</p> <p>15 they --</p> <p>16 Q. We will go over them.</p> <p>17 A. -- that they never provided. That's</p> <p>18 what I don't remember.</p> <p>19 MR. KENNEDY: We will go through the</p> <p>20 refusals. We will do that at one at a time.</p> <p>21 Let's start with 698. Let's start in 2008</p> <p>22 and your discussions with CVS and trying to get them</p> <p>23 involved with your monitoring program.</p> <p>24 (Exhibit No. 698 was marked.)</p> <p>25 MR. KENNEDY: -627161 to -162.</p>

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1 THE WITNESS: Can I have a minute to review.
2 I just --
3 MR. KENNEDY: Please. Please.
4 THE WITNESS: -- haven't seen the document
5 before.
6 (Witness reviewing document.)
7 THE WITNESS: Okay.
8 BY MR. KENNEDY:
9 Q. All right. Let's start at the
10 bottom. That's the first email in time. This is
11 from Michael Oriente, an email; correct?
12 A. Yes.
13 Q. And he was one of the Directors of
14 Regulatory Affairs, who at that time was monitoring
15 the CVS stores; would that be accurate?
16 A. I believe that's correct.
17 Q. And it's April 24, 2008. This is
18 about the time that you're beginning the
19 implementation of the monitoring program at McKesson;
20 true?
21 A. Yes, we were implementing.
22 Q. And this is an email to you; right?
23 A. It's addressed to me.
24 Q. And he is recapping a call with CVS
25 on that day; right?

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1 A. Yes.
2 Q. And he starts off, "Don" -- and
3 that's you. And he states:
4 (Reading) On this afternoon, CC with
5 Brian Whalen from CVS, Ned, Dan and
6 Elaine these issues were discussed.
7 No. 1, timing of implementation of
8 McKesson's Controlled Substance
9 Monitoring Program, dash, tentative
10 date 6-1 go live (end of reading).
11 Do you see that?
12 A. Yes.
13 Q. So talking about our threshold
14 system, we're going to start to apply that to CVS
15 tentatively on 6-1-08; right?
16 A. Yes.
17 Q. Right below the "4," let's look at
18 that next paragraph, where it starts with, "It was
19 discussed." Do you see that? And does it state:
20 (Reading) It was discussed that CVS
21 has an internal monitoring program
22 that drills down to the NDC number of
23 their stores (end of reading).
24 So they are talking about CVS has its own
25 internal order monitoring program that drills down to

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1 NDC. And NDC is a specific drug code; right?
2 A. Yes.
3 MS. HENN: Objection to form.
4 BY MR. KENNEDY:
5 Q. Okay. (Reading) It was discussed
6 that CVS has an internal monitoring
7 program that drills down to NDC number
8 for their stores. It is called Viper
9 (end of reading).
10 Do you see that?
11 A. I see that in the document.
12 Q. So was it your understanding from
13 this that CVS had its own Suspicious Order Monitoring
14 Program called Viper?
15 MS. HENN: Objection to form. Lacks
16 foundation.
17 THE WITNESS: I don't recall in the
18 discussions with CVS, and I don't remember this --
19 this memo. And I'm not -- I just don't recall any
20 discussion around Viper.
21 BY MR. KENNEDY:
22 Q. Well, let me ask you -- let's just
23 read it.
24 (Reading) It was discussed that CVS
25 has an internal monitoring program

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1 that drills down to NDC number for
2 their stores. It is called Viper (end
3 of reading).
4 Would you read that to mean that CVS had its
5 own Suspicious Order Monitoring Program called Viper?
6 MS. HENN: Objection to form. Asks for
7 speculation.
8 THE WITNESS: I am not certain what Michael
9 is referring to. They talk about an internal
10 monitoring system, a program, that -- for the stores,
11 but I don't read this to mean a suspicious order
12 reporting program. I just don't understand, because
13 I don't recall the discussion or -- around Viper and
14 don't have any recollection of Viper.
15 BY MR. KENNEDY:
16 Q. Well, Viper would have come -- that
17 name and -- that name of the program would have come
18 from CVS; right?
19 MS. HENN: Objection to form.
20 THE WITNESS: It appears it came from CVS,
21 yes.
22 BY MR. KENNEDY:
23 Q. The next states:
24 (Reading) Ned asked Brian if they
25 could share some of the information on

<p style="text-align: right;">Page 246</p> <p>1 the program so we can better 2 understand how theirs works and 3 determine if that monitoring would 4 allow for CVS threshold setting to be 5 able to take that into account (end of 6 reading). 7 So they're asking that CVS provide more 8 detail on their monitoring of opioid orders; correct? 9 MS. HENN: Objection to form. Lacks 10 foundation. 11 THE WITNESS: What I read is, again, it is 12 does CVS have a tool that would help us in 13 establishing the thresholds for their stores. 14 BY MR. KENNEDY: 15 Q. They are talking about monitoring; 16 aren't they? Where does it say anything about 17 thresholds? It says "monitoring." "Monitoring." 18 Doesn't it? 19 A. The top line says "monitoring." 20 What I was answering, Counsel, was in the 21 last line, where it -- their monitoring would help 22 allow for threshold setting, to take it into account, 23 was really, as I read this from Michael, an attempt 24 to get additional information to expedite and help us 25 with the establishment of thresholds for the CVS</p>	<p style="text-align: right;">Page 248</p> <p>1 THE WITNESS: I would -- I would 2 speculate -- I'd be speculating on what -- other than 3 what's written here, on what Viper really was. 4 I don't read that to be a Suspicious Order 5 Monitoring Program. I don't know if this is an 6 internal monitoring program of the pharmacies 7 specifically and some of their methodologies other 8 than suspicious orders, or if it is, in fact, a 9 suspicious order monitoring system. 10 BY MR. KENNEDY: 11 Q. And I'm just -- forget Viper. Put it 12 aside. 13 Wouldn't McKesson want to know whether or 14 not CVS had a Suspicious Order Monitoring Program? 15 Isn't that something that McKesson would want to 16 know? Do you have a Suspicious Order Monitoring 17 Program before we rely upon your regulatory 18 department at corporate headquarters? 19 MS. HENN: Objection to form. Lacks 20 foundation. 21 THE WITNESS: As part of our discussions and 22 diligence with their headquarters, we may or may not 23 have asked whether they specifically had a Suspicious 24 Order Monitoring Program at their -- at their 25 distribution centers for their pharmacies.</p>
<p style="text-align: right;">Page 247</p> <p>1 accounts. 2 BY MR. KENNEDY: 3 Q. Well, sir, in all of what we have 4 been talking about with respect to your reliance on 5 corporate headquarters at the big national chains, 6 hasn't your testimony always been that you relied 7 upon the big national chains to have a Suspicious 8 Order Monitoring Program? 9 MS. HENN: Objection to form. Lacks 10 foundation. 11 BY MR. KENNEDY: 12 Q. Isn't that what you've been saying? 13 MS. HENN: Same objections. 14 THE WITNESS: I think, more specifically, my 15 response was that we relied on their -- their 16 regulatory oversight of both their pharmacies and 17 their distribution to help us understand their 18 processes and help us manage our Controlled Substance 19 Monitoring Program. 20 BY MR. KENNEDY: 21 Q. Right. And that would include your 22 understanding that the pharmacy, such as CVS, had a 23 Suspicious Order Monitoring Program; correct? 24 MS. HENN: Objection to form. Lacks 25 foundation.</p>	<p style="text-align: right;">Page 249</p> <p>1 BY MR. KENNEDY: 2 Q. All right. So when we looked back at 3 that email from Ms. Thomet, where she said that 4 McKesson was giving its proxy of due diligence to the 5 big national chains, you gave your proxy to big 6 national chains -- I just want to be clear, you gave 7 your proxies to big national chains without knowing 8 whether or not they had a Suspicious Order Monitoring 9 Program? 10 MS. HENN: Objection to form. 11 BY MR. KENNEDY: 12 Q. Is that your testimony, sir? 13 MS. HENN: Lacks foundation. 14 THE WITNESS: What I can't answer is whether 15 or not we determined at the time that we interacted 16 with these national chains, at that point in time 17 whether they had a Suspicious Order Monitoring 18 Program in place or not. 19 BY MR. KENNEDY: 20 Q. You did not determine that? 21 A. At that point in time I don't believe 22 so. Or "I don't know," is my response. In 2008, we 23 were just rolling out CSMP, but I don't know whether 24 we asked every chain that question or not. 25 Q. In 2009 did you ask the chains --</p>

<p style="text-align: right;">Page 250</p> <p>1 before you gave them your proxy on due diligence, did 2 you ask chains in 2009, such as CVS, whether or not 3 they had a Suspicious Order Monitoring Program? 4 MS. HENN: Objection to form. 5 BY MR. KENNEDY: 6 Q. In relation to outside orders, not 7 what they were distributing themselves, but what they 8 were getting from McKesson? 9 MS. HENN: Objection to form. Lacks 10 foundation. Mischaracterizing the document. 11 BY MR. KENNEDY: 12 Q. Did you ask that in 2009? 13 A. I don't know. 14 Q. In 2010 did you ask the big chain 15 pharmacies, including CVS, whether or not they had a 16 Suspicious Order Monitoring Program that covers 17 orders that they placed with McKesson? Did you ask 18 them that in 2010? 19 A. I don't know. 20 Q. In 2011 did you ask the big national 21 chains, including CVS, whether or not they had 22 Suspicious Order Monitoring Programs in relation to 23 opioids that they were purchasing from McKesson? 24 A. I do not know. 25 Q. And, sir, you were -- you were in</p>	<p style="text-align: right;">Page 252</p> <p>1 later, in July of '08. 2 THE REPORTER: What number is that? 3 MR. ASQUITH: 699. 4 (Exhibit No. 699 was marked.) 5 BY MR. KENNEDY: 6 Q. I'm going to ask you about page -70? 7 MS. URQUHART: Could we get a Bates number? 8 MR. KENNEDY: -627168 to -172. 9 Q. On page -170 -- 10 A. Can you just -- I haven't seen this 11 document. I am not familiar with it at all. 12 Q. Okay. All right. 13 (Witness reviewing document.) 14 A. Okay. 15 Q. Go to page -170, please. Do you see 16 there, there is an email from Mr. Oriente, dated 17 July 22, 2008. And this email is to you; correct? 18 A. Yes. 19 Q. And you're responsible for Regulatory 20 at that point in time; are you not? 21 A. Yes, I'm still responsible for 22 Regulatory. 23 Q. And it says: 24 (Reading) CVS to start CSMP on 7-1-08 25 (end of reading).</p>
<p style="text-align: right;">Page 251</p> <p>1 charge of all the regulatory during this period, were 2 you not, 2010, 2011, and 2012? You were in charge -- 3 A. Yes. 4 Q. -- correct? 5 And these big national chains made up the 6 majority of your sales of opioids, and you don't 7 know; is that right? 8 MS. HENN: Objection to form. Lacks 9 foundation. 10 BY MR. KENNEDY: 11 Q. You do not know whether you even 12 asked them whether or not they had a Suspicious Order 13 Monitoring Program? You don't know? 14 A. I do not know whether we asked that 15 question. 16 Q. What about 2013? In 2013 did you 17 ever ask any of the big chains, anybody at McKesson 18 ever ask any of the big national chains, including 19 CVS, whether or not they had a Suspicious Order 20 Monitoring Program? 21 MS. HENN: Objection to form. Asks for 22 speculation. 23 THE WITNESS: I do not know. 24 MR. KENNEDY: We were talking about CVS, I 25 believe, in April of '08. Let's go four months</p>	<p style="text-align: right;">Page 253</p> <p>1 So now it's a month later that you're 2 getting them on the monitoring program than what was 3 originally intended; right? 4 A. Yes. 5 Q. And does it state: 6 (Reading) Don -- and this is -- this 7 is to you -- Elaine is asking that 8 we -- excuse me. Elaine is asking 9 that with this being CVS's first month 10 on the program, that certain stores 11 during this first month get reviewed 12 and thresholds tweaked before the 13 customer is consulted. Do we want to 14 have CVS provide us a blanket 15 Threshold Change Request for the first 16 month? They have their own monitoring 17 system, Viper, in place. Should I 18 request a Threshold Change Request for 19 each CVS store or can one suffice for 20 the chain? And are you okay with the 21 adjusting of CVS's thresholds similar 22 to Rite Aid's (end of reading)? 23 Now, first, they are talking about a 24 monitoring system called Viper. What did you 25 understand that to mean? That controlled substance</p>

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1 orders are being monitored by a system called Viper?
 2 A. As I stated in previous testimony, I
 3 don't recall Viper, other than what is acknowledged
 4 here, that it's a monitoring system. But, again, I
 5 don't know -- have any detail or recollection of how
 6 Viper operated.
 7 Q. Well, let me ask you this. What do
 8 you think Viper was monitoring? Was it monitoring
 9 controlled substances?
 10 MS. HENN: Objection. Calls for
 11 speculation.
 12 BY MR. KENNEDY:
 13 Q. Or you just don't have any idea?
 14 A. I can't speculate, because I just
 15 don't know.
 16 Q. Well, this whole email is about the
 17 Controlled Substances Monitoring Program; isn't it?
 18 A. Yes, it is.
 19 Q. And it says that CVS has got a
 20 monitoring program. Do you think they are monitoring
 21 something other than controlled substances?
 22 A. Again, I don't have any -- any
 23 specific knowledge or -- other than to speculate that
 24 that's about controlled substances.
 25 Q. So you think that they're talking

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1 about monitoring toothbrushes?
 2 MS. HENN: Objection to form. Asked and
 3 answered. Calls for speculation.
 4 THE WITNESS: Counsel, I'm trying to be
 5 clear that I did not and do not understand what Viper
 6 monitored, and, therefore, I can't answer your
 7 question specifically whether it did or did not
 8 include anything other than controlled substances or
 9 whether -- you know, what it oversaw.
 10 BY MR. KENNEDY:
 11 Q. Well, let me -- this is an email to
 12 you. You're in charge of Regulatory, which relates
 13 to controlled substances; right?
 14 A. Yes.
 15 Q. The topic -- or the subject of the
 16 email is your Controlled Substances Monitoring
 17 Program; correct? Correct?
 18 A. Yes.
 19 Q. They are talking about thresholds and
 20 Threshold Change Requests relating to controlled
 21 substances; are they not?
 22 A. Yes.
 23 Q. Right? They are talking about
 24 thresholds in relationship to controlled substances;
 25 are they not?

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1 A. The discussion is around thresholds
 2 and controlled substances.
 3 Q. And so where it says they have a
 4 monitoring program at CVS, isn't it real easy to
 5 conclude that they are talking about monitoring of
 6 controlled substances when you read this?
 7 MS. HENN: Objection to form. Asked and
 8 answered. Calls for speculation. Guess.
 9 THE WITNESS: Counsel, I am trying to
 10 testify to that which I know. I do not know exactly
 11 what Viper monitored.
 12 BY MR. KENNEDY:
 13 Q. All right. And you can't put all of
 14 the content of this email together and conclude that
 15 Viper is monitoring controlled substances? You can't
 16 do that; is that what you're telling us? Under your
 17 oath, on the record, you can't put all that together
 18 from this email that you received?
 19 MS. HENN: Objection to form. Asked and
 20 answered. Calling for speculation.
 21 THE WITNESS: Very clearly, I can only
 22 testify to that which I absolutely know.
 23 BY MR. KENNEDY:
 24 Q. When you got this email, let me -- I
 25 don't see a follow-up email, where you sent an email

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1 back to Michael Oriente and said, Michael, this email
 2 that you sent to me is all about monitoring
 3 controlled substances and our Controlled Substances
 4 Monitoring Program, and you're talking about
 5 thresholds for controlled substances, and you're
 6 talking about increases for controlled substances,
 7 but when you say "monitoring program," I don't know
 8 what you're talking about?
 9 Do you send that kind of email back to him
 10 saying, I don't know what you're talking about when
 11 you say "monitoring program"?
 12 I don't see that follow-up. Did you send
 13 that email back?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Not that I recall.
 16 BY MR. KENNEDY:
 17 Q. Do you remember looking at this email
 18 and saying, boy, monitoring program, what is he
 19 talking about? What is he talking about? Monitoring
 20 what? Do you recall thinking that?
 21 A. I don't remember this -- this email
 22 or this transaction at all.
 23 Q. Do you see a follow-up email so you
 24 could understand what they are monitoring?
 25 A. In this --

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1 MS. HENN: Objection to form.
 2 THE WITNESS: In this document, no.
 3 BY MR. KENNEDY:
 4 Q. So, just for the record, is it your
 5 position that reading this email, you don't know what
 6 CVS says they are monitoring? Is that your final
 7 position, so we can move on?
 8 MS. HENN: Objection. Asked and answered.
 9 Calling for speculation.
 10 THE WITNESS: What my testimony is, is they
 11 have a monitoring system, which is, as I read here,
 12 called Viper. Again, it doesn't describe what it
 13 monitors, whether it's all controlled substances,
 14 partial controlled substances, cough syrups,
 15 anything.
 16 BY MR. KENNEDY:
 17 Q. So now you think it might involve
 18 controlled substances in that answer. That's a
 19 little different than what we've heard.
 20 MS. HENN: Objection to form.
 21 Mischaracterizes the testimony.
 22 BY MR. KENNEDY:
 23 Q. Do you think it might just relate to
 24 controlled substances?
 25 A. I think my testimony was specific. I

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1 didn't know exactly what it was monitoring or
 2 referring to.
 3 Q. Oh, okay. Let me ask you, would you
 4 agree with me that McKesson had an obligation under
 5 the law to know whether or not their monitoring
 6 system at CVS related to controlled substances? You
 7 were required to know that?
 8 A. Our obligation --
 9 MS. HENN: Objection to form.
 10 THE WITNESS: Our requirement and obligation
 11 was to ensure that we were managing our program to
 12 comply with the Federal Regulations that had to do
 13 with distributors.
 14 MR. KENNEDY: All right. Would you read my
 15 question back. I want you to listen carefully and
 16 answer my question, please. I don't want just the
 17 general speech. I just want you to answer my
 18 question, if you would.
 19 (Record read as follows: QUESTION:
 20 Let me ask you, would you agree with
 21 me that McKesson had an obligation
 22 under the law to know whether or not
 23 their monitoring system at CVS related
 24 to controlled substances? You were
 25 required to know that?)

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1 MS. HENN: Objection to form.
 2 THE WITNESS: Then my answer to the question
 3 is that it's not a requirement under the Federal
 4 Regulation.
 5 BY MR. KENNEDY:
 6 Q. And that's what you believe now, and
 7 that's what you believed in 2008; right? Is that
 8 right?
 9 A. My belief now, as it was then, is
 10 that we had a responsibility to comply to the
 11 regulations associated with distribution of
 12 controlled substances.
 13 Q. And what you -- and I concede that
 14 what you just told me -- we're going to write this
 15 down so we get it right -- your position is that you
 16 were not legally required to know whether or not CVS
 17 had a monitoring program in 2008; is that your
 18 testimony?
 19 MS. HENN: Objection to form.
 20 THE WITNESS: Our responsibility was to
 21 operate systems that complied with the regulations
 22 regarding the distribution and handling of controlled
 23 substances.
 24 MR. KENNEDY: Would you read my question
 25 back, please.

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1 (Record read as follows: QUESTION:
 2 What you just told me -- we're going
 3 to write this down so we get it
 4 right -- your position is that you
 5 were not legally required to know
 6 whether or not CVS had a monitoring
 7 program in 2008; is that your
 8 testimony?)
 9 MS. HENN: Objection to form.
 10 THE WITNESS: Our regulatory responsibility
 11 was very specific in terms of distribution and the
 12 handling and distribution of controlled substances.
 13 MR. KENNEDY: Could I have the Elmo, please.
 14 Q. Let me ask you -- is it your -- is it
 15 your testimony that McKesson was not required to know
 16 whether CVS had a Controlled Substance Monitoring
 17 Program?
 18 MS. HENN: Objection to form. Asked and
 19 answered.
 20 THE WITNESS: Under the regulation, we were
 21 required to operate a system for the handling and
 22 distribution of controlled substances. And how we
 23 did that was at our discretion.
 24 BY MR. KENNEDY:
 25 Q. Is it your position that McKesson, in

<p style="text-align: right;">Page 262</p> <p>1 the exercise of its discretion, was not required to 2 know whether CVS had a Controlled Substance 3 Monitoring Program? 4 MS. HENN: Same objection. 5 THE WITNESS: Again, counsel, I'm trying to 6 answer your question. Because what we are required 7 to do, as I understand, is to manage a program under 8 the CFR on the handling and distribution of 9 controlled substances. 10 BY MR. KENNEDY: 11 Q. And I'm asking you very specifically, 12 did that requirement include the requirement to know 13 whether CVS had a Controlled Substance Monitoring 14 Program? 15 MS. HENN: Objection to form. 16 THE WITNESS: Again, I understand the 17 regulation. I understand what our requirements were. 18 I did not -- I do not understand that there's any 19 requirement on how we execute that specifically. 20 BY MR. KENNEDY: 21 Q. So then your answer would be -- am I 22 correct your answer would be, you did not believe 23 that McKesson was required to know whether or not CVS 24 had a Controlled Substance Monitoring Program? Is 25 that your testimony?</p>	<p style="text-align: right;">Page 264</p> <p>1 allow McKesson to increase CVS 2 thresholds as needed to avoid omits 3 through the end of August without 4 receiving advance validation from CVS 5 (end of reading). 6 Tell the jury what that means. 7 A. We agreed to increase thresholds as 8 needed. We -- I do recall this specifically. 9 We had experienced a data issue in terms of 10 the data that CVS provided to establish the 11 thresholds. And to ensure that we were getting 12 medications to pharmacies to fill scripts across the 13 network, we wanted to ensure that we -- to provide 14 them with orders. 15 Q. They weren't providing you with 16 dispensing data; were they? 17 MS. HENN: Objection to form. 18 BY MR. KENNEDY: 19 Q. CVS wasn't providing you with 20 dispensing data that you were asking for to set the 21 thresholds; correct? 22 MS. HENN: Objection to form. Lacks 23 foundation. 24 THE WITNESS: More accurately, CVS was not 25 providing all of the sales data we needed. We never</p>
<p style="text-align: right;">Page 263</p> <p>1 MS. HENN: Objection to form. 2 THE WITNESS: I would -- the answer is, we 3 weren't required. It would be helpful but not 4 required. 5 MR. KENNEDY: Mark this, please. 6 THE REPORTER: 803. 7 (Exhibit No. 803 was marked.) 8 MR. KENNEDY: I show you Exhibit 700. 9 (Exhibit No. 700 was marked.) 10 BY MR. KENNEDY: 11 Q. I show you Exhibit 700, which is 12 -555948 to -950. 13 (Witness reviewing document.) 14 Q. You get an email from Elaine Thomet, 15 August 26, '08. We're still talking about CVS, and 16 it is -- you are copied on this email; are you not? 17 A. Yes, I am. 18 Q. And it says: 19 (Reading) Team, here's the recap from 20 our meeting with Don this morning (end 21 of reading). 22 And Don is you; right? 23 A. Yes. 24 Q. And it says: 25 (Reading) No. 1, Don will continue to</p>	<p style="text-align: right;">Page 265</p> <p>1 asked for the prescription data. 2 BY MR. KENNEDY: 3 Q. You were asking them for sales data 4 so you could accurately set sales threshold, and CVS 5 refused to give you the sales database; true? 6 MS. HENN: Objection to form. Lacks 7 foundation. 8 BY MR. KENNEDY: 9 Q. Is that right? 10 A. Just a minute. I don't recall that 11 they -- that this is true. At this point in time, my 12 recollection is that with the data that they were 13 providing us, we were establishing their thresholds. 14 But my recollection was, is that the data was not 15 accurate or incomplete. It was more of a data issue 16 than it was a refusal for them to provide 17 information. 18 Q. And they continue to refuse in '08 19 and '10 and '12 and '14; didn't they? 20 MS. HENN: Objection to form. Lacks 21 foundation. 22 BY MR. KENNEDY: 23 Q. Didn't they, Mr. Walker? 24 A. I don't recall that they refused to 25 provide data going forward.</p>

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1 Q. And then it says that you're going to
2 increase their thresholds without CVS validating the
3 increases; isn't that what it says?
4 A. That's what it says. And, again,
5 this was a rollout period to CVS, where the issues
6 were more data issues than they were any other
7 issues, to ensure that we had the appropriate
8 threshold sets for the pharmacies based on the size
9 and volume of that particular pharmacy.
10 Q. Did you ever represent or tell the
11 DEA that you would be increasing thresholds without
12 any validation from the customer? Did you ever tell
13 the DEA that you would be doing that?
14 MS. HENN: Objection to form. Lacks
15 foundation.
16 THE WITNESS: I don't believe we had any
17 conversation with the DEA around the on-boarding of
18 CVS and CSMP.
19 BY MR. KENNEDY:
20 Q. Then you state:
21 (Reading) No. 2, Don indicated that
22 the process cannot continue beyond
23 August. Going forward, in order to
24 meet McKesson's obligation to the DEA,
25 all Threshold Change Requests will

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1 require documented advance validation
2 from CVS in order for McKesson to
3 increase their thresholds to avoid
4 omit (end of reading).
5 Is that what you stated?
6 MS. HENN: Objection to form.
7 Mischaracterizes the document.
8 THE WITNESS: I don't recall the --
9 specifically what I said. That's what is in the
10 document here by Elaine.
11 BY MR. KENNEDY:
12 Q. No validation to the end of August,
13 and then you were going to require it to meet your
14 obligations to the DEA; correct?
15 You weren't meeting your obligations up
16 until the end of August, but you were going to start
17 meeting your obligations to the DEA by the end of
18 August; is that what it says?
19 MS. HENN: Objection to form. Lacks
20 foundation.
21 BY MR. KENNEDY:
22 Q. Is that what that means?
23 A. No, that's not accurate. What --
24 what we were in the middle of is the execution of
25 CSMP, a very complex rollout. We were trying to

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1 ensure that we had legitimate medications that were
2 required for patients to reach the pharmacies without
3 a systemic block that was not justified.
4 Q. Well, when you state here, going
5 forward, with respect to CVS, Threshold Change
6 Requests will require documentation, advance
7 validation from CVS in order for McKesson to increase
8 their thresholds -- do you see that statement?
9 A. I see that is written here, yes.
10 Q. And you indicated that that's what
11 was going to happen with CVS going forward after
12 August of '08; correct?
13 A. Again, I don't have a specific
14 recollection of this meeting or these events. It is
15 what Elaine Thomet is representing in this document.
16 Q. Did you email it back and say you're
17 wrong, Elaine, that's not what -- that's not what I
18 said?
19 A. I don't recall.
20 MS. HENN: Objection to form.
21 BY MR. KENNEDY:
22 Q. Well, let's -- I want to -- this is
23 important. It states:
24 (Reading) Going forward, in order to
25 meet McKesson's obligation to the DEA,

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1 all Threshold Change Requests -- all
2 capitals -- all Threshold Change
3 Requests will require documented
4 advance validation from CVS in order
5 for McKesson to increase their
6 thresholds (end of reading).
7 Do you see that? Is that what is stated at
8 least here?
9 A. That's -- yes, that's what's stated
10 in here.
11 Q. And that never happened; did it?
12 MS. HENN: Objection to form. Lacks
13 foundation.
14 BY MR. KENNEDY:
15 Q. That never happened with CVS; did it?
16 This requirement that you stated that going forward,
17 going forward, for all Threshold Change Requests, we
18 will require documented advance validation from CVS,
19 that never happened with respect to CVS; did it?
20 A. I don't believe that that's accurate.
21 What I can't tell you is specifically. But I don't
22 believe that to be accurate.
23 Q. So you believe for all Threshold
24 Change Requests, with respect to CVS, McKesson
25 required advanced documented validations; is that

<p style="text-align: right;">Page 270</p> <p>1 what your statement is? That's what you required?</p> <p>2 A. What I recall is we required advanced</p> <p>3 validation from CVS. What I can't testify to is</p> <p>4 whether all took place. But your earlier statement</p> <p>5 was, we didn't do it at all. That's not correct.</p> <p>6 Q. All right. Well, let's take a look.</p> <p>7 And you said -- this is what we have to do to meet</p> <p>8 our DEA obligations; right? Advance documented</p> <p>9 validation to meet our DEA obligations; that was the</p> <p>10 statement in this email, was it not?</p> <p>11 A. That's what's written in the email.</p> <p>12 MR. KENNEDY: All right. Let's go forward,</p> <p>13 then, a couple months into this, in November of '08,</p> <p>14 and look at 701.</p> <p>15 (Exhibit No. 701 was marked.)</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. I'm looking at the Elaine Thomet's</p> <p>18 email, November 12 of 2008, to you and others. But</p> <p>19 it's sent to you.</p> <p>20 The second bullet point down, does it</p> <p>21 state -- and this is two months after you're saying</p> <p>22 we're going to need advance documented validation</p> <p>23 from CVS for any increase:</p> <p>24 (Reading) Going forward, any CVS</p> <p>25 pharmacy that encroaches upon these</p>	<p style="text-align: right;">Page 272</p> <p>1 also co-managing on their side with</p> <p>2 Viper (end of reading).</p> <p>3 So you're comfortable -- you're comfortable</p> <p>4 with increasing thresholds with no explanation from</p> <p>5 CVS because they have -- they are managing with</p> <p>6 Viper; do you see that?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 Mischaracterizes the document.</p> <p>9 THE WITNESS: I see what is written here.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. And you don't know what Viper is;</p> <p>12 right?</p> <p>13 A. I don't remember what Viper is.</p> <p>14 Q. Did anybody ever know what Viper was?</p> <p>15 A. I don't know.</p> <p>16 Q. You don't know.</p> <p>17 Would you be surprised to know that Viper is</p> <p>18 not a Controlled Substance Monitoring Program for any</p> <p>19 controlled substances that CVS purchased from</p> <p>20 McKesson?</p> <p>21 MS. HENN: Objection to form. Lack --</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Would that be surprising to you?</p> <p>24 MS. HENN: Objection to form. Lacks</p> <p>25 foundation.</p>
<p style="text-align: right;">Page 271</p> <p>1 new thresholds will be increased by</p> <p>2 the Regulatory Affairs team without</p> <p>3 CVS explanations so long as they don't</p> <p>4 fall into a category we've identified</p> <p>5 as "unusual" thus requiring further</p> <p>6 explanation from CVS (end of reading).</p> <p>7 So explanation from CVS on increasing its</p> <p>8 threshold was now going to be the exception, not the</p> <p>9 rule; correct?</p> <p>10 A. Hang on just a minute. I'm just</p> <p>11 catching up with you.</p> <p>12 Q. Did I read that right?</p> <p>13 A. That's -- I believe so. I wasn't</p> <p>14 keeping up with you when you were reading it. But I</p> <p>15 believe that's correct.</p> <p>16 Q. It goes on. Do you see, "Don feels</p> <p>17 comfortable"?</p> <p>18 (Reading) Don feels comfortable with</p> <p>19 this approach of not requiring any</p> <p>20 explanation. Don feels comfortable</p> <p>21 with this approach since we're talking</p> <p>22 about lower-end thresholds that are</p> <p>23 very easily explainable by natural</p> <p>24 growth we're seeing in their purchase</p> <p>25 patterns and because we know CVS is</p>	<p style="text-align: right;">Page 273</p> <p>1 THE WITNESS: Again, I don't have any</p> <p>2 knowledge of Viper, how CVS used Viper, what it did.</p> <p>3 I just can't answer your question.</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. Did anybody at McKesson, when they</p> <p>6 said, we're comfortable -- this said you're</p> <p>7 comfortable. You're comfortable with this</p> <p>8 arrangement because they are co-managing with Viper.</p> <p>9 It says you're comfortable.</p> <p>10 So if you're comfortable that they are</p> <p>11 co-managing with Viper, can we agree that you knew</p> <p>12 what Viper was?</p> <p>13 MS. HENN: Objection to form.</p> <p>14 THE WITNESS: No, I don't think that's</p> <p>15 accurate. I mean, this document is a summary from</p> <p>16 Elaine Thomet. Those -- those are interpretations</p> <p>17 that she presented. I don't -- Counsel, I do not</p> <p>18 remember. I do not have a recollection of Viper.</p> <p>19 Until I saw it today, I didn't even understand that</p> <p>20 CVS had a Viper. I'm trying to be clear that I just</p> <p>21 don't know.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. But, again, from this email, if it</p> <p>24 says you're comfortable with increasing without CVS</p> <p>25 explanation, and one of the reasons you're</p>

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1 comfortable is because CVS is managing with the
2 Viper, could you agree that you probably had an
3 understanding of what a Viper was if it was making
4 you comfortable?
5 MS. HENN: Objection to form. Asked and
6 answered.
7 THE WITNESS: Again, I can't testify that I
8 understood Viper enough to be comfortable. These are
9 Elaine Thomet's words. They are not mine. I simply
10 can't answer the question around Viper.
11 MR. KENNEDY: Let's go to Exhibit 702.
12 (Exhibit No. 702 was marked.)
13 MS. HENN: Thank you.
14 MR. KENNEDY: This is an email from Ned.
15 MS. URQUHART: Could we get the Bates
16 number, please.
17 MR. KENNEDY: -627150 to -158.
18 Q. This is from Ned McKenna of McKesson;
19 correct?
20 A. Yes.
21 Q. And it's being sent to CVS; correct?
22 A. Yes.
23 Q. And it indicates, it says:
24 (Reading) Brian, as we discussed
25 yesterday, I have attached a

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1 PowerPoint presentation with our
2 findings, based upon our last meeting
3 with the CVS team (end of reading).
4 True?
5 A. That's what the document says.
6 Q. Did you see this document, probably
7 back in December of '08?
8 A. I was copied on it. I don't -- I
9 don't recall.
10 Q. Go to page -157. Do you see the "Go
11 Forward Proposal" on page -157?
12 Bullet point 3. And this is where McKesson
13 is writing to CVS. Instead of focusing on every
14 location -- location would be a pharmacy; is that
15 right? Is that true, sir?
16 A. Just a second.
17 Okay. And bullet point 3?
18 Q. Yeah. Does it state, "Instead of
19 focusing on every location" -- that would be a
20 pharmacy; true?
21 A. I would -- that's what's written,
22 would be my understanding.
23 Q. (Reading) instead of focusing on
24 every location approaching their new
25 threshold, McKesson will seek CVS

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1 support when such threshold increases
2 are considered extraordinary.
3 Otherwise, McKesson will adjust the
4 thresholds reasonably without further
5 CVS explanation (end of reading).
6 Was that the policy that was adopted?
7 MS. HENN: Objection to form.
8 THE WITNESS: The answer to that is, no.
9 What we were engaged in is trying to true up. Again,
10 as I said, the data issues that we had in terms of
11 establishing CVS's thresholds were extensive. And
12 those data issues that were there triggered issues of
13 not getting appropriate medications all -- across all
14 of the controlled substances to the CVS pharmacies
15 that needed to fulfill prescriptions for their
16 patients. So --
17 MS. HENN: Are you done with your answer,
18 Mr. Walker?
19 THE WITNESS: Yes.
20 BY MR. KENNEDY:
21 Q. Is the title of this slide, "Go
22 Forward Proposal"?
23 A. The title of this slide is Ned
24 McKenna's words, "Proposal."
25 Q. Pardon me?

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1 A. Ned McKenna's words. It was his
2 document, not nine.
3 Q. Oh, you don't agree with that? You
4 don't agree that this was the going forward proposal?
5 A. Again, I don't have specific
6 recollection of this document. But I do know at the
7 time that we were working, trying to appropriately
8 true up their threshold numbers across all their
9 pharmacies.
10 Q. This is now December of 2008. And
11 this is what's being sent to CVS. And do you think
12 that this is wrong, when it says, this is the go
13 forward proposal we're making?
14 MS. HENN: Objection to form. Asked and
15 answered.
16 THE WITNESS: Again, as I -- as I read the
17 document, Counsel, it is clearly how -- responding to
18 them to help them understand how we were going to try
19 to, you know, correct what we -- I viewed as a
20 business issue around making sure that the thresholds
21 were appropriate around the business that CVS had.
22 BY MR. KENNEDY:
23 Q. This is six months into the
24 Controlled Substances Monitoring Program, and you are
25 proposing to CVS that you are going to increase their

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1 thresholds with no explanation from CVS; correct?
2 Isn't that's what's being proposed to them six months
3 into the monitoring program, sir?
4 MS. HENN: Objection to form.
5 Mischaracterizing the document or testimony.
6 BY MR. KENNEDY:
7 Q. True?
8 A. I don't -- I don't think that's -- I
9 don't believe that to be accurate. I think what we
10 are saying is we're going to use the -- based on the
11 bullet point above, use the data that they had
12 provided that was more current and reflected the
13 pharmacy's actual volumes to ensure that the
14 thresholds we were establishing were correct.
15 Q. This is not talking about the
16 establishment of thresholds. Bullet point 3 is
17 talking about threshold increases; is it not?
18 A. Threshold increases. But, again,
19 Counsel, what I'm trying to explain, during this time
20 we had established preliminary thresholds based on
21 what I would determine to be incorrect data, not
22 complete data in terms of the pharmacy volumes. We
23 had pharmacies who were not able to fill
24 prescriptions to their customers, a legitimate, you
25 know, pharmacy, and we were trying to appropriately

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1 re-establish and, for the lack of a better term, true
2 up their thresholds to ensure that we could
3 accurately create a monitoring program for CVS.
4 Q. Real simple: Does this state that
5 thresholds will be increased without further CVS
6 explanation? Is that what is listed as a
7 going-forward proposal? Is that what it states?
8 MS. HENN: Objection to form.
9 Mischaracterizes the document.
10 BY MR. KENNEDY:
11 Q. Is that what it states?
12 MS. HENN: Asked and answered.
13 THE WITNESS: That is what is written here.
14 BY MR. KENNEDY:
15 Q. And this is what was sent to CVS in
16 this PowerPoint; correct?
17 MS. HENN: Objection to form.
18 THE WITNESS: Based --
19 BY MR. KENNEDY:
20 Q. Is this what was sent to CVS in this
21 PowerPoint?
22 A. Based on the email from Ned, this is
23 the document. And, yes, CVS received this.
24 Q. And is this six months into the
25 implementation of the monitoring program?

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1 A. This -- the answer is, yes, it was
2 six months into the program, three months after we
3 implemented CVS.
4 MR. KENNEDY: Let's look how that worked,
5 all right? Give me 703, please.
6 (Exhibit No. 703 was marked.)
7 MR. KENNEDY: This is Exhibit 703, -535756
8 to -901.
9 Q. I'm going to start with the bottom
10 email. That's from Dave Gustin. All right?
11 A. Okay.
12 Q. And the subject is, "Hydrocodone
13 Increase." We know what hydrocodone is, right, a
14 controlled substance? Right?
15 A. Yes.
16 Q. And it says:
17 (Reading) We, the DRAs, Directors of
18 Regulatory Affairs, have gotten
19 permission from Don Walker to go in
20 and do a "cross-the-board" 30 percent
21 increase on all stores hydrocodone
22 THD -- (end of reading).
23 What does that stand for?
24 A. I don't know.
25 Q. That's related to the hydrocodone;

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1 right? So you're going to increase the hydrocodone
2 THD for WM. Is that Walmart?
3 A. I believe so.
4 Q. And CVS.
5 (Reading) It will be -- it will then
6 be the last and only increase that
7 will be done in this month on that
8 base-code. We do not want to
9 piece-meal this and be doing lots of
10 individual increases after today (end
11 of reading).
12 Did I read that right?
13 A. That is what the document says.
14 Q. So you gave permission for a
15 30 percent increase in hydrocodone across all CVS
16 stores?
17 A. Again, I don't recall this event
18 specifically. But the document says cross-the-board
19 30 percent increase.
20 Q. And so this is going to be the last
21 and only increase that will be done on this month;
22 true?
23 MS. HENN: Objection to form.
24 BY MR. KENNEDY:
25 Q. Is that what it says?

<p style="text-align: right;">Page 282</p> <p>1 A. That's -- yes, that's what the 2 document says. 3 Q. Go up above. Now we're seven days 4 later, an email from Elaine Thomet to all the 5 different folks that are Directors of Regulatory 6 Affairs. You're copied. And does it say: 7 (Reading) Hi, Team, I just had a 8 discussion with Don. And after some 9 review, he approved another 5,000 10 temporary increase on each of the CVS 11 locations, showing up to over 12 90 percent on today's threshold report 13 for hydrocodone (end of reading). 14 Did I read that right? 15 A. Yes. 16 MR. KENNEDY: Let's go to 2010. Now, this 17 is two days -- two years later. Two years after you 18 said you're going to increase without explanation. 19 You said that wasn't permanent, it was temporary. 20 Now we're two years later with CVS; all right? 21 Exhibit 704. 22 (Exhibit No. 704 was marked.) 23 MR. KENNEDY: -512900 to -01 and then -02. 24 Q. If you will go to page -- the first 25 page, -900, Exhibit 704, the bottom email. That's</p>	<p style="text-align: right;">Page 284</p> <p>1 page, a list of 30 different CVS stores that are 2 having a threshold increase. 3 MS. HENN: Same objection. 4 BY MR. KENNEDY: 5 Q. Do you see that? 6 A. Again, I don't have a specific 7 recollection of this. But the document lists a 8 number of CVS pharmacies. 9 BY MR. KENNEDY: 10 Q. Was that common, 30 CVS stores get an 11 increase all at one time? 12 MS. HENN: Objection to form. Lacks 13 foundation. 14 THE WITNESS: Again, Counsel, I don't know 15 the details behind this request. There may have been 16 a number of very appropriate business issues related 17 to needing to cover all these pharmacies at a single 18 time. 19 BY MR. KENNEDY: 20 Q. Well, let's look at the Threshold 21 Change Request, the very next page, -902, and see all 22 of these very important considerations. 23 (Reading) Reason for requested change. 24 This is for 30 CVS stores. Per the 25 process agreed to with McKesson and</p>
<p style="text-align: right;">Page 283</p> <p>1 from Rhonda Fargo, that bottom email? 2 A. The bottom of -900? 3 Q. Yes. 4 A. Yes. 5 Q. And now it's February of 2010, two 6 years after the CSMP has been put into place. And 7 she's sending an email to different directors in 8 Regulatory Affairs; correct? 9 A. Yes. 10 Q. She says: 11 (Reading) Please see attached a 12 Threshold Change Request form for CVS 13 (end of reading). 14 Is that what it states? 15 A. Yes, it does. 16 Q. Go two pages later. This Threshold 17 Change Request is asking for threshold increases on 18 30 different CVS stores all at the same time; 19 correct? 20 MS. HENN: Objection to form. Lacks 21 foundation. 22 THE WITNESS: The -- referring to the 23 Threshold Change Request? 24 BY MR. KENNEDY: 25 Q. I'm looking at the list -- the next</p>	<p style="text-align: right;">Page 285</p> <p>1 CVS Loss Prevention Team 2/6/09, 2 Michael Oriente will provide CVS a 3 list of any location requiring CVS 4 validation prior to further TCRs. For 5 now these threshold increases are 6 considered reasonable (end of 7 reading). 8 Is that what it states? 9 A. Yes. 10 Q. And these all got approved; didn't 11 they? 12 MS. HENN: Objection to form. Lacks 13 foundation. 14 BY MR. KENNEDY: 15 Q. Thirty stores? 16 A. I don't -- 17 MS. HENN: Objection to form. Lacks 18 foundation. 19 BY MR. KENNEDY: 20 Q. Thirty stores got approved? 21 MS. HENN: Same objection. 22 THE WITNESS: I don't -- I don't whether 23 these were approved or not. This report was 24 submitted. I don't know whether the approval went 25 through or not. I can't tell.</p>

<p style="text-align: right;">Page 286</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Well, look on page -900. We were</p> <p>3 just on that page. Look at page -900.</p> <p>4 A. So, yes, I see that now.</p> <p>5 Q. All of them approved?</p> <p>6 MS. HENN: Objection to form. Lacks</p> <p>7 foundation.</p> <p>8 Counsel, we're over an hour. Take a five-,</p> <p>9 ten-minute break.</p> <p>10 THE VIDEOGRAPHER: We are going off the</p> <p>11 record. The time is 3:51 p.m.</p> <p>12 (Recess taken.)</p> <p>13 THE VIDEOGRAPHER: We are back on the</p> <p>14 record. The time is 4:07 p.m.</p> <p>15 MR. KENNEDY: I show you Exhibit 713, which</p> <p>16 is Bates -627066.</p> <p>17 (Exhibit No. 713 was marked.)</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. Do you see that email? I just wanted</p> <p>20 to look at the last sentence in that email.</p> <p>21 A. I see the email there.</p> <p>22 Q. You're right. Do you see that</p> <p>23 last --</p> <p>24 A. The last sentence at the bottom?</p> <p>25 Q. Yes. Ned is from -- Ned is from</p>	<p style="text-align: right;">Page 288</p> <p>1 A. I don't recall specifically what CVS</p> <p>2 was providing at the time. The document indicates</p> <p>3 that we were not getting store-level usage data.</p> <p>4 Q. From CVS; right?</p> <p>5 A. From CVS.</p> <p>6 Q. In 2008 you requested sales data from</p> <p>7 CVS, didn't you, to try to set the initial</p> <p>8 thresholds; true? We've talked about that.</p> <p>9 A. Yes, we -- we -- in 2008, during the</p> <p>10 time that we were bringing them on board to the CSMP,</p> <p>11 we requested data to help establish the initial</p> <p>12 thresholds.</p> <p>13 Q. And now it's 2010, and they are</p> <p>14 saying that we could minimize an issue if we had</p> <p>15 store-level usage data from CVS. That's 2010, that</p> <p>16 statement; correct?</p> <p>17 A. Yes.</p> <p>18 MR. KENNEDY: All right. And give me</p> <p>19 Exhibit 706, please.</p> <p>20 (Exhibit No. 706 was marked.)</p> <p>21 MR. KENNEDY: 706, Bates -620748 to -49.</p> <p>22 Q. I want to look at the second email</p> <p>23 down from Ned McKenna to Brian Whalen. And you are</p> <p>24 copied. And this is August 6, 2010. All right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 287</p> <p>1 McKesson?</p> <p>2 A. Ned is from McKesson.</p> <p>3 Q. They are indicating -- if you look at</p> <p>4 the second sentence, this would be minimized if CVS</p> <p>5 would provide store-level uses data. Do you see</p> <p>6 that? And it's 2010; correct?</p> <p>7 A. I can't find that. Just a moment.</p> <p>8 Q. The second sentence. The last</p> <p>9 sentence starts with "Ned," on the last paragraph --</p> <p>10 or the sentence that starts with "Ned."</p> <p>11 (Reading) Ned, we should be over the</p> <p>12 main hurdle, but realistically there</p> <p>13 still may be some isolated issues in</p> <p>14 August (end of reading).</p> <p>15 Do you see that? It's -066. Do you see</p> <p>16 that?</p> <p>17 A. Okay. Yes, I do.</p> <p>18 Q. It says:</p> <p>19 (Reading) This would be minimized if</p> <p>20 CVS would provide store-level usage</p> <p>21 data (end of reading).</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. CVS still isn't providing McKesson</p> <p>25 with store-level usage data at this point; true?</p>	<p style="text-align: right;">Page 289</p> <p>1 Q. And does that email -- and it's CVS</p> <p>2 Action Plans. That's the subject; true? Do you see</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. And it states:</p> <p>6 (Reading) FYI, prior to the transition</p> <p>7 and in an effort to be proactive, as</p> <p>8 we set the CSMP thresholds for 163</p> <p>9 stores, we asked CVS for three months</p> <p>10 of sales data. We were told we could</p> <p>11 not have the data. More recently, we</p> <p>12 again asked for the most recent three</p> <p>13 months of sales data from CVS. Once</p> <p>14 again, we were told that we could not</p> <p>15 have the data. Our thinking with both</p> <p>16 requests was that if we had CVS actual</p> <p>17 data, we could collaborate with CVS</p> <p>18 and set very accurate, functional,</p> <p>19 controlled substance monitoring</p> <p>20 thresholds. Unfortunately, we do not</p> <p>21 have any CVS sales data except for the</p> <p>22 McKesson actual sales from July after</p> <p>23 the transition was up and running.</p> <p>24 Would it be possible for you to</p> <p>25 authorize someone at CVS to release</p>

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1 three months of actual sales data to
2 McKesson? I believe it would be an
3 excellent next step in our achieving
4 our common goal of keeping all of
5 these 164 CVS stores supplied with
6 items (end of reading).
7 Do you see that?
8 A. Yes.
9 Q. Did I read that correctly?
10 A. Yes, you did.
11 Q. So asked for in '08; 2010 asked for.
12 Let's go up to the response to the question, and this
13 is a response from Brian Whalen, of CVS, to McKesson;
14 true?
15 A. Yes, that's what it appears to be.
16 Q. And he says:
17 (Reading) As I am sure you remember,
18 this was the same request McKesson
19 made when McKesson launched the
20 Controlled Substance Monitoring
21 Program a couple of years ago. CVS
22 was not comfortable releasing this
23 information then, and we aren't
24 comfortable now (end of reading).
25 Did I read that correctly?

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1 A. Yes.
2 Q. They were refusing to give you this
3 data, and this is your second request; true?
4 A. Probably more accurately stated, I
5 recall this 164 stores. This was a group of stores
6 that we took on in the 2010 time frame. So with
7 these 164 stores, this is their initial
8 implementation in the CSMP, not an update on the
9 original CVS group.
10 Q. This is 2010, two years after the
11 original CSMP; is it not, sir?
12 A. Two years after we implemented.
13 Q. Right. Two years after. And this is
14 the second time you have requested sales data. And
15 this is the second time they have said, no; true?
16 MS. HENN: Objection to form.
17 THE WITNESS: In the note from CVS, they
18 declined to provide sales data. CVS viewed that data
19 as proprietary and chose not to share it.
20 MR. KENNEDY: Let's look at the CVS program
21 and where it led to; all right? Give me Exhibit 708,
22 please.
23 (Exhibit No. 708 was marked.)
24 BY MR. KENNEDY:
25 Q. The metadata indicates that this is

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1 from February 8 of 2010.
2 THE VIDEOGRAPHER: Sorry, sir. I think
3 you're hitting the --
4 THE WITNESS: Oh, did it again.
5 BY MR. KENNEDY:
6 Q. So this is a list of 1,988 CVS stores
7 with thresholds over 10,000 units a month. Do you
8 remember this, the creation of this report, of 1,988
9 CVS stores with thresholds over 10,000?
10 MS. HENN: Objection to form. Lacks
11 foundation.
12 BY MR. KENNEDY:
13 Q. And I will represent to you that we
14 counted.
15 MS. HENN: Same objection.
16 THE WITNESS: Sir, I don't recognize this --
17 this report at all. So I'm not familiar with it.
18 MR. KENNEDY: 710, Exhibit 710.
19 (Exhibit No. 710 was marked.)
20 MS. HENN: Are we done with 708?
21 MR. KENNEDY: Yes.
22 MS. HENN: Okay.
23 BY MR. KENNEDY:
24 Q. Do you see the email -- the email is
25 from Tom McDonald, 2-8-2010; do you see that?

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1 A. And it's a CVS threshold discussion.
2 And does it say:
3 (Reading) Continue discussion
4 regarding CVS thresholds, data
5 attached. I have scrubbed all
6 customers with thresholds below 15,000
7 and all CVS warehouse customers. So
8 we have pharmacies and mail order
9 pharmacies on this list. Roughly 470
10 lines on the report. Should be
11 relatively straightforward to review
12 and analyze (end of reading)?
13 So this is a list in 2010 of 470 CVS
14 pharmacies with thresholds above 15,000 a month;
15 correct?
16 MS. HENN: Objection to form. Lacks
17 foundation.
18 BY MR. KENNEDY:
19 Q. Is that what the email says?
20 A. What I read is that he's created a
21 report with pharmacies, and trying to understand the
22 report with pharmacies in CVS that have a threshold
23 on a given -- or in controlled substance greater than
24 15,000.
25 Q. Right. Remember, I was talking about

<p style="text-align: right;">Page 294</p> <p>1 the DEA national average of five -- 5,000 a month?</p> <p>2 Here's a list of 470 CVS stores more than three times</p> <p>3 the national average, 470. Do you remember getting</p> <p>4 this report?</p> <p>5 MS. HENN: Objection to form. Lacks</p> <p>6 foundation.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. Do you remember getting this report?</p> <p>9 A. I do not recall seeing this report</p> <p>10 before. And I wasn't copied on the email.</p> <p>11 MR. KENNEDY: That's 2010. Let's go two</p> <p>12 years forward and look at CVS and see how the</p> <p>13 threshold system was working.</p> <p>14 Let's go to 2012, Exhibit 709.</p> <p>15 (Exhibit No. 709 was marked.)</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. This is from Tom McDonald. Tom</p> <p>18 McDonald, at this point in time, he was the Director</p> <p>19 of Regulatory Affairs and was responsible for CVS;</p> <p>20 was he not?</p> <p>21 MS. HENN: Objection to form. Lacks</p> <p>22 foundation.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. 2012.</p> <p>25 A. I believe in 2012 Tom McDonald was --</p>	<p style="text-align: right;">Page 296</p> <p>1 were still the boss of Regulatory at this point in</p> <p>2 time; did they not share this report with you about</p> <p>3 CVS?</p> <p>4 MS. HENN: Objection to form. Lacks</p> <p>5 foundation.</p> <p>6 THE WITNESS: No, I don't think that's</p> <p>7 correct. I don't recall this report, but I believe I</p> <p>8 would have been included under that PGR -- RDRC under</p> <p>9 the CCs.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. And this is a list of 93, 93 CVS</p> <p>12 pharmacies that are of concern to McKesson? Isn't</p> <p>13 that what this is, 93 stores?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 THE WITNESS: This --</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. Is that what it says?</p> <p>18 MS. HENN: Lacks foundation.</p> <p>19 THE WITNESS: This email from Tom McDonald</p> <p>20 to Ned, as I read it -- again, I don't recall</p> <p>21 specifically, but as I read it and look at the data,</p> <p>22 he is preparing to have discussions as -- with CVS</p> <p>23 headquarters and highlight the areas of concern that</p> <p>24 he may have or questions that he may have</p> <p>25 specifically.</p>
<p style="text-align: right;">Page 295</p> <p>1 oversaw CVS.</p> <p>2 Q. And he emails to Ned McKenna, Dustin</p> <p>3 McCoy, and the subject us, "CVS Controlled Substance</p> <p>4 Analysis." And this is 2012; all right? And he</p> <p>5 states:</p> <p>6 (Reading) Ned, per our discussion,</p> <p>7 attached is the analysis of CVS</p> <p>8 accounts that are of concern --</p> <p>9 all right -- the columns are headed</p> <p>10 with clear titles of the content.</p> <p>11 Generally speaking, a customer with</p> <p>12 ratios of controlled substances to Rx</p> <p>13 should be between ten and fifteen</p> <p>14 percent. Additionally, hydrocodone</p> <p>15 30 milligrams could represent between</p> <p>16 one quarter or one third of the</p> <p>17 overall oxy purchases. Do not share</p> <p>18 this file with the customer. Do not</p> <p>19 share it with anyone within the</p> <p>20 company with the exception of Dustin</p> <p>21 McCoy and John -- Dan Jeffries. Once</p> <p>22 you have had a chance to review it, we</p> <p>23 can discuss details and set up a call</p> <p>24 with CVS (end of reading).</p> <p>25 So did they not share this with you? You</p>	<p style="text-align: right;">Page 297</p> <p>1 What I don't know is what the outcome of</p> <p>2 this was or any actions that were taken by Tom.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. Let's go back. My question is real</p> <p>5 simple: Is this a list of 93 CVS accounts that are</p> <p>6 of concern to Mr. McDonald at McKesson? Is that what</p> <p>7 this is?</p> <p>8 MS. HENN: Objection.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. Very simply.</p> <p>11 MS. HENN: Objection to form. Lacks</p> <p>12 foundation.</p> <p>13 THE WITNESS: The document states that,</p> <p>14 "Attached is an analysis of CVS accounts that are of</p> <p>15 concern."</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. And do you understand, from looking</p> <p>18 at this, every single one of these CVS stores that</p> <p>19 was of concern at this point in time involved</p> <p>20 oxycodones?</p> <p>21 A. I see the analysis is specific to</p> <p>22 oxycodone.</p> <p>23 Q. And oxycodone, sir, was at the center</p> <p>24 of the opioid crisis in this country by 2012; was it</p> <p>25 not?</p>

<p style="text-align: right;">Page 298</p> <p>1 A. In 2012 oxycodone had been identified 2 as a controlled substance that was being abused. 3 Q. Not "a." "The." 4 You know well that by 2012 oxycodone was in 5 the middle of the opioid crisis; was it not? 6 A. It was one of the controlled 7 substances that was of concern being abused. 8 Q. Let me ask you: Not one of; was 9 oxycodone the number one addict and killer in the 10 United States with respect to this opioid crisis by 11 2012? Number one; was it not, sir? 12 MS. HENN: Objection to form. Asked and 13 answered. And lacks foundation. 14 THE WITNESS: I can't answer its position. 15 What I can absolutely assure you is that there were 16 other controlled substances that were of concern 17 across the country for abuse. 18 BY MR. KENNEDY: 19 Q. And so McKesson identifies 93 CVS 20 stores that are of concern involving oxycodones. The 21 plan is to set up a call with CVS in the future; is 22 that what it says? "Let's set up a call in the 23 future with CVS." 24 A. That's what the document says. 25 Q. They are still shipping them</p>	<p style="text-align: right;">Page 300</p> <p>1 be very appropriate for a pharmacy. But until he 2 conducted the due diligence, which my view of this 3 document he was preparing to do, he couldn't make a 4 determination whether or not there was a concern over 5 the particular pharmacy's purchases. 6 Q. He already said there were concerns; 7 right? Look at the first sentence. "Per our 8 discussions, attached is the analysis of the CVS 9 accounts that are of concern." 10 He's already determined they are of concern; 11 hasn't he? 12 MS. HENN: Objection to form. 13 BY MR. KENNEDY: 14 Q. Right? 15 A. He has -- that is what is written. 16 What the concern is would be his analysis 17 identifying, you know, based on numbers. 18 Q. And, sir, the law says you stop 19 shipping until you do your due diligence; isn't that 20 what the law says? 21 MS. HENN: Objection to form. Lack of 22 foundation. 23 BY MR. KENNEDY: 24 Q. Right? 25 A. No, that --</p>
<p style="text-align: right;">Page 299</p> <p>1 oxycodones; aren't they? 2 Did it say here, we have 93 CVS stores that 3 are of concern, we need to stop shipping? Does it 4 say that? 5 A. No, it does not. 6 Q. And when you got this, did you say, 7 oh, if you've got 93 CVS stores that are of concern 8 with respect to oxycodones, stop shipping? Did you 9 order that at this point when you got this? 10 A. To my knowledge, no. 11 Q. Did you tell them, this plan to set 12 up a call with CVS in the future, that's not 13 adequate, we have a crisis going on in this country? 14 Did you tell them that? 15 A. I don't recall stating that or 16 telling them that. 17 Q. And nobody's doing any individual 18 investigation of any single one of these 93 stores? 19 You're going to call corporate CVS sometime in the 20 future; that's the plan, correct? 21 A. As part of our monitoring of our 22 retail national accounts, we were and continue to use 23 the resources at the chain headquarters, particularly 24 in their regulatory group. In and of itself, the 25 numbers -- he sorted out that the numbers, it could</p>	<p style="text-align: right;">Page 301</p> <p>1 Q. This is 2012. 2 A. Can I finish, Counsel. 3 MS. HENN: Yes, you can. 4 BY MR. KENNEDY: 5 Q. My question is -- 6 MS. HENN: Counsel, he would like to finish 7 his answer. 8 MR. KENNEDY: I didn't finish my question. 9 Q. Isn't that the law in 2012, you don't 10 ship if you have a concern? 11 MS. HENN: Mr. Walker, do you need the prior 12 question back so you can answer? 13 MR. KENNEDY: It's the same question. 14 THE WITNESS: I think I can answer the 15 question. 16 MS. HENN: Okay. 17 THE WITNESS: Counsel, there is no 18 regulation to stop shipping controlled substances. 19 The regulation requires that we report suspicious 20 orders. 21 MR. KENNEDY: We're going to write this one 22 down. 23 Q. How long has that been your view? In 24 2007 -- let's start with 2007 -- was McKesson 25 required to not ship until it did its due diligence</p>

<p style="text-align: right;">Page 302</p> <p>1 on potentially suspicious orders? Was that required</p> <p>2 in 2007?</p> <p>3 MS. HENN: Objection to form.</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. Don't ship until we do our due</p> <p>6 diligence?</p> <p>7 MS. HENN: Objection to form. Lack of</p> <p>8 foundation.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. Was that required of McKesson in</p> <p>11 2007, do not ship until we do our due diligence?</p> <p>12 MS. HENN: Same objection.</p> <p>13 THE WITNESS: There is no regulatory</p> <p>14 requirement to not ship. There is a regulatory</p> <p>15 requirement to report.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. All right. And did the DEA tell you</p> <p>18 in 2006 that you are required not to ship until you</p> <p>19 do your due diligence on a potentially suspicious</p> <p>20 order? Did they tell you that in '06 in a letter to</p> <p>21 McKesson?</p> <p>22 MS. HENN: Objection to form. Lacks</p> <p>23 foundation.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. Did they tell you that in '06 in a</p>	<p style="text-align: right;">Page 304</p> <p>1 the thresholds, and we conducted due diligence after</p> <p>2 the orders were blocked.</p> <p>3 Q. And now you've got 93 CVS stores in</p> <p>4 2012 that you are shipping to even though you are</p> <p>5 concerned about their purchases of oxycodones? That</p> <p>6 is exactly what is happening in 2012; is it not?</p> <p>7 A. What is -- what is read in here is,</p> <p>8 as I stated, a note that we needed to conduct</p> <p>9 additional due diligence on these CVS stores to</p> <p>10 ensure that we understood that -- their level of</p> <p>11 purchases and their store activity, utilizing their</p> <p>12 store headquarters, to ensure that our thresholds</p> <p>13 were correct.</p> <p>14 Q. Right. And while you're doing your</p> <p>15 due diligence, you're shipping; correct? To these</p> <p>16 stores that you're concerned about, you're shipping?</p> <p>17 MS. HENN: Objection to form. Lack of</p> <p>18 foundation.</p> <p>19 THE WITNESS: Certainly, if they did not</p> <p>20 exceed their threshold, we would continue to ship.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. Even though you have concern; right?</p> <p>23 A. If they did not exceed their</p> <p>24 threshold, we would continue to ship.</p> <p>25 MR. KENNEDY: I show you 707.</p>
<p style="text-align: right;">Page 303</p> <p>1 letter to McKesson?</p> <p>2 A. In 2006 their guidance and direction</p> <p>3 was, do not ship. And the requirement is at the</p> <p>4 point that we determine an order to be suspicious.</p> <p>5 Q. Does your CSMP that you put in place</p> <p>6 in 2008 say, do not ship --</p> <p>7 MS. HENN: Objection to form.</p> <p>8 BY MS. HENN:</p> <p>9 Q. -- until we have done our due</p> <p>10 diligence? Does your own CSMP say that in 2008?</p> <p>11 MS. HENN: Objection to form.</p> <p>12 THE WITNESS: Our CSMP blocks the order. We</p> <p>13 conduct the due diligence. But at the point we</p> <p>14 determine that order to be suspicious, is at the</p> <p>15 point where we need to report to the DEA.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. And you block until you do your due</p> <p>18 diligence; do you not, sir? That was your policy</p> <p>19 since '08?</p> <p>20 MS. HENN: Objection to form. Lack of</p> <p>21 foundation.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Correct? That was your policy since</p> <p>24 2008?</p> <p>25 A. Orders were blocked if they exceeded</p>	<p style="text-align: right;">Page 305</p> <p>1 (Exhibit No. 707 was marked.)</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. A PowerPoint prepared by you?</p> <p>4 MS. URQUHART: Could we get the Bates</p> <p>5 number, please?</p> <p>6 MR. KENNEDY: Pardon me?</p> <p>7 MS. URQUHART: Could we get the Bates</p> <p>8 number, please?</p> <p>9 MR. KENNEDY: Just don't interrupt my</p> <p>10 question, and I will be right back with you,</p> <p>11 all right?</p> <p>12 Q. 707, Exhibit 707, is a PowerPoint,</p> <p>13 "CVS - Regulatory PowerPoint"; is it not?</p> <p>14 THE WITNESS: This is a -- appears to be a</p> <p>15 PowerPoint presentation from McKesson to CVS.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. So my answer is, "Yes"? Is the</p> <p>18 answer to my question, "Yes"?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: It's a McKesson PowerPoint.</p> <p>21 You asked if it was a CVS PowerPoint. It's a</p> <p>22 McKesson PowerPoint.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. Does it say, "CVS - Regulatory</p> <p>25 Review"?</p>

<p style="text-align: right;">Page 306</p> <p>1 A. It's a CVS regulatory review.</p> <p>2 Q. Prepared by you?</p> <p>3 A. Yes.</p> <p>4 Q. Bates No. -497980 to -89. This is</p> <p>5 March of 2012? Is that correct?</p> <p>6 A. Yes, that's the date on the document.</p> <p>7 Q. Go to page -989, if you would. On</p> <p>8 this presentation is the title of this slide,</p> <p>9 "McKesson Regulatory Needs from CVS"? Is that what</p> <p>10 the title of this slide is, that you prepared; right?</p> <p>11 A. Yes.</p> <p>12 Q. Number one -- this is what you need</p> <p>13 from CVS, and it's 2012. You need from them a</p> <p>14 mechanism for the review of prescribing doctors; do</p> <p>15 you see that?</p> <p>16 A. Yes.</p> <p>17 Q. CVS provided you no information up to</p> <p>18 2012 where you could review the prescribing doctors</p> <p>19 at CVS pharmacies, that's why you're asking for it</p> <p>20 here in 2012; right?</p> <p>21 MS. HENN: Objection to form. Lacks</p> <p>22 foundation.</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. Is that right? Number one, the first</p> <p>25 thing you are asking for, "Mechanisms for the review</p>	<p style="text-align: right;">Page 308</p> <p>1 "Provide the ratio of prescriptions per doctor."</p> <p>2 You're asking them for that; true?</p> <p>3 A. That's what's written.</p> <p>4 Q. And up to 2012, they had provided you</p> <p>5 with no information that would allow you to calculate</p> <p>6 that at McKesson; true?</p> <p>7 MS. HENN: Objection to form. Lacks</p> <p>8 foundation.</p> <p>9 THE WITNESS: We had not received any</p> <p>10 prescription ratio data.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. Three, you're saying, here's what we</p> <p>13 need from CVS, we need a contact person at CVS for</p> <p>14 inquiries. You needed that in 2012 from them; did</p> <p>15 you not?</p> <p>16 A. Again, I think what we -- what</p> <p>17 specifically I was asking for was to have a targeted</p> <p>18 individual that we could work with in CVS for</p> <p>19 inquiries such as these, if they were available.</p> <p>20 Q. And that's what Mr. Oriente, who</p> <p>21 managed CVS early on, that's what he was asking for</p> <p>22 in that email two years before; right? Who do I</p> <p>23 contact; right? And now you're asking for it again,</p> <p>24 and it's 2012; true? Who do we contact at CVS for</p> <p>25 inquiries?</p>
<p style="text-align: right;">Page 307</p> <p>1 of prescribing doctors"? Is that the first thing</p> <p>2 that you're asking for?</p> <p>3 A. We were asking this in the course of</p> <p>4 this meeting we had with CVS in terms of trying to</p> <p>5 improve our abilities to monitor all of our retail</p> <p>6 national account pharmacies and work with CVS.</p> <p>7 Q. At this point in time you had no</p> <p>8 information from CVS with respect to the prescribing</p> <p>9 doctors -- the doctors whose prescriptions they were</p> <p>10 filling, you had no information from them at this</p> <p>11 point in time, 2012; true?</p> <p>12 MS. HENN: Objection to form. Lacks</p> <p>13 foundation.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. Is that true?</p> <p>16 A. We did not have doctor -- prescribing</p> <p>17 doctor data.</p> <p>18 Q. And the DEA had been talking to you</p> <p>19 about this being important since 2006; right?</p> <p>20 MS. HENN: Objection to form. Lack of</p> <p>21 foundation.</p> <p>22 THE WITNESS: The DEA had identified</p> <p>23 prescribing doctors as an area of focus.</p> <p>24 BY MR. KENNEDY:</p> <p>25 Q. The second, you're asking CVS,</p>	<p style="text-align: right;">Page 309</p> <p>1 A. I don't -- I don't think that's</p> <p>2 accurate. We had contact points between 2010 and</p> <p>3 2012.</p> <p>4 What I recall from this meeting was</p> <p>5 specifically we were trying to enhance our efficiency</p> <p>6 in working with them and have a person that we know</p> <p>7 that we could go to specifically for the data side.</p> <p>8 Q. And you're asking them again to say,</p> <p>9 we need for you to provide us, CVS, with a rate of</p> <p>10 growth of each store year over year? You didn't have</p> <p>11 that information from CVS at this point in 2012; did</p> <p>12 you?</p> <p>13 A. No. Again, chains view this as</p> <p>14 proprietary information.</p> <p>15 Q. They wouldn't provide it to you;</p> <p>16 would they?</p> <p>17 A. They did not provide it.</p> <p>18 Q. Did you see -- you think that that's</p> <p>19 proprietary. But did you say to them, do you know</p> <p>20 what's going on in America in 2012? Did you say --</p> <p>21 did they have an understanding of the crisis, the</p> <p>22 opioid crisis in 2012?</p> <p>23 MS. HENN: Objection to form. Asks for</p> <p>24 speculation.</p> <p>25 THE WITNESS: My recollection of the meeting</p>

<p style="text-align: right;">Page 310</p> <p>1 with a fairly large group of people at CVS is they 2 were very aware of the issues concerning controlled 3 substances and prescriptions and had a very intense 4 internal effort to try to work on those. 5 BY MR. KENNEDY: 6 Q. You have a memory of that meeting. 7 What did they tell you about their Suspicious Order 8 Monitoring Program for what they were purchasing from 9 you? What did they tell you about it at that time, 10 then? 11 MS. HENN: Objection to form. 12 BY MR. KENNEDY: 13 Q. You said they had a very aggressive 14 program. What did they tell you about their 15 Suspicious Order Monitoring Program for you to 16 conclude in 2012 that they had a very aggressive 17 program? What was it they told -- 18 MS. HENN: Objection to form. Lacks 19 foundation. 20 BY MR. KENNEDY: 21 Q. So you remember the meeting. What 22 did they tell you about the Suspicious Order 23 Monitoring Program in 2012? 24 MS. HENN: Objection to form. Lack of 25 foundation.</p>	<p style="text-align: right;">Page 312</p> <p>1 A. DEA had identified cash sales as a 2 potential indicator. 3 Q. Did you ever say to CVS, why won't 4 you give us this information? Why won't you tell us 5 about the cash sales and the yearly growth rate 6 prescription ratios, prescribing doctors? Did you 7 ever ask them why they would not provide you with 8 that information? 9 A. From -- from this meeting and other 10 discussions that I had had with the -- with CVS, they 11 viewed that their sales data, as a competitive in the 12 business world, was proprietary, and they chose not 13 to share it with us. 14 Q. They were putting their business over 15 the safety of the American people; is that what they 16 told you? Our proprietary business interest is more 17 important than the ability to monitor the sales of 18 opioids into this community? 19 MR. O'CROININ: Objection. 20 MS. HENN: Objection to form. Lacks 21 foundation. 22 BY MR. KENNEDY: 23 Q. That's what they told you, their 24 proprietary business interest -- 25 MS. HENN: Same objection.</p>
<p style="text-align: right;">Page 311</p> <p>1 THE WITNESS: I will try to answer what I 2 think are two questions. 3 One is, we didn't have a discussion around 4 suspicious order monitoring of their purchases from 5 us. That suspicious order monitoring, as I 6 understand it, it really is focused around the 7 distributor. 8 But what I said was not a program. But I 9 think they had an intense focus internally around 10 ensuring that they were doing what they needed to do 11 to manage their pharmacies to ensure that there 12 wasn't a diversion of prescription medications. 13 BY MR. KENNEDY: 14 Q. You next asked them for cash sales 15 ratio per store. You didn't have that information 16 from them yet, and this is 2012; correct? 17 A. Again, CVS chose not to share that 18 data with us. 19 Q. And -- and the DEA had been telling 20 you since 2006, this is important information to have 21 to identify diversion; correct? 22 MS. HENN: Objection to form. Lacks 23 foundation. 24 BY MR. KENNEDY: 25 Q. It's six years later.</p>	<p style="text-align: right;">Page 313</p> <p>1 THE WITNESS: That is not at all accurate. 2 What they said was that their business data and 3 information around sales, because we were a 4 wholesaler servicing other retail national accounts, 5 was proprietary, and they chose not to share it with 6 us. 7 BY MR. KENNEDY: 8 Q. It's a business interest; right? 9 A. I would characterize it as a business 10 decision. 11 Q. A business decision. And they are 12 making -- and CVS is making a business decision at 13 the same time you, Don Walker, are telling people in 14 all your presentations that at this point opioids are 15 killing more people in this country than cocaine and 16 heroin combined; correct? 17 MS. HENN: Objection to form. Lack of 18 foundation. 19 THE WITNESS: My recollection is that there 20 were a number of presentations that I made that 21 included information that I had pulled off the 22 Internet or from DEA. That if that was something the 23 DEA reported, then I may have repeated it. 24 BY MR. KENNEDY: 25 Q. And it's the same time that CVS is</p>

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1 choosing to make a business decision on this issue;
 2 right? Same time, 2012?
 3 A. I don't remember. The timing for me
 4 is very difficult to piece together. I don't
 5 remember.
 6 Q. Sir, from everything we have looked
 7 at here, you asked for this sales data from CVS in
 8 '08, you asked in 2010, and now it's 2012, and you're
 9 asking for it again; right? Correct?
 10 A. We are requesting data from them,
 11 yes.
 12 Q. And they're telling you, we're making
 13 a business decision, we're not giving it to you; is
 14 that what happened?
 15 MS. HENN: Objection to form.
 16 THE WITNESS: Their decision was that they
 17 were not going to provide the data for us and
 18 explained it was proprietary.
 19 BY MR. KENNEDY:
 20 Q. Let's switch topics. We will talk
 21 about sales, McKesson, sales and promotion as it
 22 related to the Controlled Substances Monitoring
 23 Program.
 24 Can we agree that sales should have nothing
 25 to do with the Controlled Substances Monitoring

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1 Program, should not have anything to do with it? Do
 2 you agree with that?
 3 A. Can I clarify, Counsel. Are you
 4 referring to our sales force?
 5 Q. Your sales force, your sales
 6 strategy, your sales goal should have nothing to do
 7 with your job as the head of Regulatory to monitor
 8 controlled substances?
 9 MS. HENN: Objection to form. Compound.
 10 THE WITNESS: I would not agree that our
 11 sales force should not be involved in the Controlled
 12 Substance Monitoring Program. I would agree that
 13 sales never influenced our decisions around our
 14 regulatory responsibilities.
 15 BY MR. KENNEDY:
 16 Q. Okay. Well, let's look at that.
 17 Let's look at that.
 18 First of all, how many sales reps -- did you
 19 know how many national sales reps McKesson had,
 20 regional sales manager? Hundreds?
 21 A. I'm going to -- it would be a guess
 22 that we had -- it would probably be less -- you know,
 23 150 or less. I really don't remember exactly.
 24 Q. And the First Service -- the sales
 25 assistants, the First Service folks that were located

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1 down in Texas, I think I've read there were a hundred
 2 sales assistants down in Texas; do you recall that?
 3 First Service.
 4 MS. HENN: Objection. Objection to form.
 5 THE WITNESS: Counsel, our -- it's called
 6 Service First.
 7 MR. KENNEDY: I'm sorry.
 8 THE WITNESS: Our Service First organization
 9 was not just a sales support organization. It was
 10 really a customer -- customer service call center.
 11 BY MR. KENNEDY:
 12 Q. You had the Regional Sales Managers.
 13 How many District sales folks above the -- above the
 14 Regional Sales Managers were there? If there's 100
 15 to 150 Sales Managers, how many District sales folks
 16 were above them?
 17 MS. HENN: Objection to form. Lacks
 18 foundation.
 19 THE WITNESS: I don't remember specifically
 20 how many there were.
 21 BY MR. KENNEDY:
 22 Q. How many marketing folks were there,
 23 people that had put together the marketing sales
 24 programs above the -- let's say the District Sales
 25 Manager? How many were those in that department,

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1 let's say, nationally?
 2 MS. HENN: Objection to form.
 3 THE WITNESS: Our marketing group was not
 4 based in the field. We had a marketing group that
 5 was headquartered. I don't remember what the
 6 specific number of marketing people we had. I
 7 would -- I would estimate, and it would be a pure
 8 estimation, it was probably 35.
 9 BY MR. KENNEDY:
 10 Q. So you maybe have 150 Sales Managers
 11 across the country, and you've got District Sales
 12 Managers above them. McKesson has got 35 people
 13 working in marketing. Is that in San Francisco?
 14 Would that be here?
 15 A. Yes. All the marketing at the time
 16 was at our headquarters in San Francisco.
 17 Q. And you've got a hundred customer
 18 service reps sitting at a call center. They were
 19 down in Texas; right?
 20 MS. HENN: Objection to form. Lacks
 21 foundation.
 22 THE WITNESS: Our Service First organization
 23 was based in Texas, and we also had a satellite --
 24 and at that time I think we had a satellite in
 25 Phoenix that, again, I can't remember specifically

<p style="text-align: right;">Page 318</p> <p>1 how many people were there. 2 BY MR. KENNEDY: 3 Q. And I'm -- I'm -- for what we've 4 said, I'm counting up close to -- close to 300 people 5 in marketing and sales at McKesson; would that be 6 about right? 7 MS. HENN: Objection to form. Lacks 8 foundation. 9 THE WITNESS: Again, I'm concerned about 10 guessing on the numbers. 11 MR. KENNEDY: All right. 12 THE WITNESS: But it's -- 13 BY MR. KENNEDY: 14 Q. Well, one thing you're not guessing 15 on back in 2006 or '7, in Regulatory, watching 16 opioids, there was three; right? Three people? 17 MS. HENN: Objection to form. Lacks 18 foundation. 19 BY MR. KENNEDY: 20 Q. Three? 21 A. That -- that's not accurate because 22 our Field Operations Team, our Distribution Center 23 Managers, and their second in command were also very 24 heavily involved in regulatory compliance. 25 Q. Five hours ago didn't we look at a</p>	<p style="text-align: right;">Page 320</p> <p>1 A. We paid the \$13 million penalty. 2 Q. The answer would be "Yes"; correct? 3 MS. HENN: Objection to form. Asked and 4 answered. 5 BY MR. KENNEDY: 6 Q. It's a "yes" or "no." The answer 7 would be, yes, you paid a \$13 million fine; true? 8 A. We paid a \$13 million penalty. 9 Q. Okay. Maybe I -- would I be 10 correct -- it's kind of a "yes" or "no." Simple. 11 Would I be correct you paid a \$13 million penalty in 12 2008? 13 A. That's correct. 14 Q. Leading up to that, prior to 2008, 15 you folks began to meet and discuss the creation of a 16 new monitoring program; did you not? 17 A. Internally? 18 Q. Yes. 19 A. Yes. 20 Q. And creating this program, in the 21 discussions in the creation of this program -- this 22 was during the period '06 you were creating the 23 program -- you were having discussions with the DEA 24 about the creation of a new monitoring program 25 leading up to your Settlement Agreement. You were</p>
<p style="text-align: right;">Page 319</p> <p>1 slide you presented to the DEA and said, prior to 2 2008 our regulatory team had three people? 3 MS. HENN: Objection to form. 4 BY MR. KENNEDY: 5 Q. You, Mr. Hilliard, and another 6 gentleman. Isn't that the representation to the DEA 7 on the slide that we looked at six hours ago? 8 MS. HENN: Objection to form. 9 Mischaracterizing the document. 10 THE WITNESS: What I was representing in 11 that document was what our Regulatory Affairs staff 12 group was. Again, we very strongly utilized our 13 Field Operations Teams in terms of our regulatory 14 compliance, and ensured that at a local level we had 15 oversight. 16 BY MR. KENNEDY: 17 Q. Sir, McKesson paid a \$13 million fine 18 in 2008; correct? 19 A. We paid -- as a result of the 20 agreement, we paid a penalty of \$13 million. 21 Q. So the answer would be "Yes"; right? 22 MS. HENN: Objection to form. Asked and 23 answered. 24 BY MR. KENNEDY: 25 Q. Would the answer be "Yes"?</p>	<p style="text-align: right;">Page 321</p> <p>1 involved in those; right? 2 A. Most of the involvement that I had 3 was -- was internal and working with counsel. I 4 don't recall any specific meetings with DEA during 5 that time period of the development of the program. 6 Q. All right. Internally, though, when 7 McKesson was beginning to formulate a monitoring 8 program to monitor controlled substances, they 9 were -- they were trying to put together a program to 10 monitor controlled substance that wasn't going to 11 interfere with sales, though? Wasn't that part of 12 the discussion? 13 MS. HENN: Objection to form. Lacks 14 foundation. 15 THE WITNESS: No, that's -- I wouldn't 16 characterize that as being accurate. 17 I think we were very focused on ensuring 18 that we created a system that monitored controlled 19 substances but at the same time ensured that we could 20 provide medications to pharmacies. All of those 21 medications are required. They are sold regularly. 22 They have a lot of need, and appropriate need in the 23 marketplace. And we wanted to ensure that we 24 maintained our responsibility as a distributor to 25 balance and ensure that we could provide medications</p>

<p style="text-align: right;">Page 322</p> <p>1 as needed for patients. 2 BY MR. KENNEDY: 3 Q. Sir, internally you wanted to put 4 together a monitoring program to make the DEA happy, 5 but you wanted to make sure the monitoring program 6 was not going to interfere with sales at McKesson; 7 right? 8 MS. HENN: Objection to form. Asked and 9 answered. 10 BY MR. KENNEDY: 11 Q. That was a concern? 12 A. That is absolutely not correct. 13 MR. KENNEDY: Give me 722, please. 14 (Exhibit No. 722 was marked.) 15 BY MR. KENNEDY: 16 Q. You have seen this document before; 17 haven't you, sir? 18 A. Give me a minute. I don't think 19 I've -- certainly, if it's an email that I generated. 20 But I don't remember having seen it. 21 Q. Bates No. -543914 to -16. 22 A. Okay. 23 Q. Go to the last page, -916, because 24 this is where this exchange begins. 25 Okay. You see the email from Gary Hilliard?</p>	<p style="text-align: right;">Page 324</p> <p>1 Mischaracterizes the evidence. 2 THE WITNESS: October 2006. We implemented 3 in the spring of 2008. So roughly that time frame. 4 BY MR. KENNEDY: 5 Q. It states: 6 (Reading) McKesson will establish a 7 monthly threshold of 10,000 dosage 8 forms of hydrocodone for all customers 9 at each of the facilities. Customers 10 requesting to purchase more than this 11 amount will be required to provide 12 additional information on its 13 dispensing practices to justify 14 amounts above this threshold. Such 15 information will be reviewed by 16 McKesson Regulatory Affairs before a 17 customer will be authorized to 18 purchase more than 10,000 dosage forms 19 per month. McKesson will also 20 establish thresholds for other 21 controlled substance purchases (end of 22 reading). 23 Did I read that right? 24 A. Yes. 25 Q. So Mr. Hilliard, he's talking about</p>
<p style="text-align: right;">Page 323</p> <p>1 And this is October 23, 2006. This is during the 2 period when you're trying to put together your 3 monitoring program; correct? 4 A. Yes, this would be during the time 5 frame we were creating the IT development for -- 6 Q. And Gary Hilliard -- 7 MS. HENN: Did you finish your answer, sir? 8 THE WITNESS: The IT development program for 9 the CSMP. 10 MS. HENN: Thank you. 11 BY MR. KENNEDY: 12 Q. Gary Hilliard, at that point he is 13 the Director of Regulatory Affairs; right? 14 A. I believe Gary's title at the time 15 was Regulatory. He's on the Regulatory staff, and I 16 believe that title is correct. 17 Q. He states in this email -- do you 18 know Sharon Mackarness? Who that is? 19 A. I'm familiar with the name. Sharon 20 Mackarness was one of our -- the McKesson I.T. 21 associates who was responsible for pieces of 22 development and interface with CSMP. 23 Q. This is a year-and-a-half before your 24 monitoring program goes into place; true? 25 MS. HENN: Objection to form.</p>	<p style="text-align: right;">Page 325</p> <p>1 this threshold system that became your program in 2 2008; correct? 3 A. I believe that he's -- I believe 4 that's true. 5 Q. And up above Sharon Mackarness from 6 I.T., she emails back, and she goes through some 7 details about this meeting. Apparently they had a 8 meeting, and she's asking some questions about the 9 dosage and about other items with respect to this 10 implementation from an I.T. standpoint as it relates 11 to this threshold program; correct? 12 MS. HENN: Objection to form. 13 BY MR. KENNEDY: 14 Q. That's basically what she's saying? 15 She's responding, and she's asking some I.T. 16 questions about the establishment of the program? 17 A. It appears that she is asking 18 questions to get the information she needs for system 19 design. 20 Q. And she is -- again, she's 21 referencing a meeting that occurred that morning, 22 October 26, 2006; right? 23 A. Yes. 24 Q. And go to the earlier page, -15. The 25 same day Sharon McGinnis -- Mackarness, excuse me,</p>

<p style="text-align: right;">Page 326</p> <p>1 from I.T. at McKesson, she writes an email to Gary 2 Hilliard; correct? 3 A. At the bottom of the page, yes. 4 Q. And she copies two other folks. 5 VanderWerf; correct? 6 A. Yes. 7 Q. And she says, "Gary," right? Gary? 8 A. Yes. 9 Q. In the second paragraph she says, 10 "JD," and that's probably referencing Jean-Dou up 11 ahead? Up above, JD? 12 A. Yes. 13 Q. Do you know JD, who he was? 14 A. Another I.T. individual. 15 Q. She says, "JD brought up a valid 16 point in the meeting." And these folks are meeting 17 about putting together your monitoring program; 18 right? 19 A. Yes. 20 Q. It says: 21 (Reading) JD brought up a valid point 22 in the meeting. We are in the 23 business to sell product. If we could 24 produce a report (and you may already 25 have one) that warned a customer's</p>	<p style="text-align: right;">Page 328</p> <p>1 I.T. guy. He is the head of Regulatory, and he 2 thinks it's a good idea to give customers warnings so 3 we don't lose sales; is that what he says? 4 MS. HENN: Objection to form. 5 THE WITNESS: What his response is, is -- 6 and I won't speculate on what his thought process is, 7 but is what JD brought up, he thought, "I think JD's 8 idea is good." 9 BY MR. KENNEDY: 10 Q. He thinks it's a good idea to design 11 a monitoring program of opioids that won't cause lost 12 sales; is that right? 13 MS. HENN: Objection to form. Lacks 14 foundation. 15 BY MR. KENNEDY: 16 Q. Is that what he's saying? 17 MS. HENN: Calls for speculation. 18 THE WITNESS: No, I don't think that's 19 accurate. I think what Gary and even the I.T. people 20 are saying is we need to design a system that ensures 21 that our pharmacy customers get the product that they 22 need, while at the same time that we can monitor and 23 create thresholds and manage our controlled substance 24 distribution. 25 ///</p>
<p style="text-align: right;">Page 327</p> <p>1 approach to the threshold, say at 2 85 percent of their 10,000 doses, work 3 could begin on justifying an increase 4 in threshold prior to any lost sales 5 (end of reading). 6 Is that what she wrote? 7 A. That is what is written. 8 Q. And this is an email amongst the 9 folks that are trying to formulate a Controlled 10 Substances Monitoring Program to address a crisis in 11 this country; right? That's who this email is being 12 exchanged among? 13 A. They're I.T. technical people trying 14 to solve and create a systemic solution, which was 15 very complex, for our I.T. answer to managing the 16 thresholds and the overall system. 17 Q. Well, they may be I.T. people, but 18 the response of Gary Hilliard, the Vice President of 19 Regulatory Affairs is -- emails right back, "I think 20 JD's idea is good." Do you see that? 21 A. I see that. 22 Q. JD's idea to give warnings to our 23 customers when they approach thresholds so that we 24 don't lose any sales, the head of Regulatory said 25 that's a good idea? Do you see that? He's not an</p>	<p style="text-align: right;">Page 329</p> <p>1 BY MR. KENNEDY: 2 Q. Let me ask you this. What he says, 3 it's a good idea -- it's a good idea to warn 4 customers they are approaching thresholds so that we 5 won't have lost sales. When he says that is a good 6 idea, are we absolutely certain -- could we 7 absolutely agree that that is exactly what happened 8 with your monitoring program, it provided warnings to 9 customers when they approached thresholds? 10 MS. HENN: Objection to form. 11 BY MR. KENNEDY: 12 Q. Is that right, sir? 13 A. Our system provided a notification 14 when a customer was approaching a threshold. 15 Q. Exactly what was suggested here and 16 exactly what the Director of Regulatory Affairs says 17 we should do so we won't lose sales? 18 MS. HENN: Objection to form. You're 19 mischaracterizing the document. 20 BY MR. KENNEDY: 21 Q. This exact suggestion became a 22 reality? 23 MS. HENN: Same objections. 24 THE WITNESS: That's not -- that's not 25 correct. All of McKesson was working hard to</p>

<p style="text-align: right;">Page 330</p> <p>1 understand and make sure that our customers received 2 all the medications that they needed. We were very 3 focused on providing inventory to our pharmacy 4 customers. That is what is being -- in my view, 5 what's being stated here. 6 BY MR. KENNEDY: 7 Q. You had a warning program built right 8 into the CSMP that warned customers when they 9 approached their thresholds; did you not, sir? 10 Did you have a warning program that actually 11 got put into place in 2008? 12 MS. HENN: Objection to form. 13 THE WITNESS: We provided a warning to 14 customers, indicating to them that they were 15 approaching a threshold on a given controlled 16 substance. 17 BY MR. KENNEDY: 18 Q. In addition to this threshold warning 19 system that became part of the 2008 Controlled 20 Substances Monitoring Program, you folks also created 21 a system that put your salespeople in the middle of 22 your monitoring program; true? 23 MS. HENN: Objection to form. Lacks 24 foundation. 25 ///</p>	<p style="text-align: right;">Page 332</p> <p>1 on what the percentages or the proportions were. 2 Q. Well, before you allowed them to be 3 in the middle of a Controlled Substance Monitoring 4 Program, wouldn't you want to know whether or not 5 they had an incentive to sell more products, to sell 6 more controlled substances? Wouldn't you want to 7 know that? 8 MS. HENN: Objection to form. 9 THE WITNESS: Our sales force was 10 compensated on a total pharmacy performance, is what 11 I do understand. And controlled substances in a 12 pharmacy are not a large percentage of any volume. 13 So clearly what our view was is our sales 14 force had more interaction and contact with the 15 pharmacies, and we wanted to leverage them to help us 16 understand and know our customers. 17 BY MR. KENNEDY: 18 Q. All right. Salespeople also got paid 19 if they brought in a new pharmacy, a new customer 20 into McKesson; didn't they? They also got paid if 21 they did that; true? 22 MS. HENN: Objection to form. Lacks 23 foundation. 24 THE WITNESS: Again, I don't have any 25 specific knowledge of what they were paid. But I</p>
<p style="text-align: right;">Page 331</p> <p>1 BY MR. KENNEDY: 2 Q. Isn't that true, sir? 3 A. I'm not sure I understand the 4 question as asked. 5 Q. Well, we will go through some detail, 6 then. 7 First of all, you knew and understood that 8 the salespeople at McKesson were paid on commission; 9 did you not? 10 A. Our sales force was -- has a 11 portion -- my understanding is a portion of their 12 compensation, there was variable compensation 13 associated with various programs. 14 Q. The more they sold, the more money 15 they made, very simple; isn't that true? 16 MS. HENN: Objection to form. Lacks 17 foundation. 18 THE WITNESS: To my knowledge, that's not 19 accurate. It wasn't -- it's not that simple of a 20 calculation or process. 21 BY MR. KENNEDY: 22 Q. In fact, didn't you know and 23 understand that a salesperson could double, could 24 double their annual income based upon sales? 25 A. I don't have any specific knowledge</p>	<p style="text-align: right;">Page 333</p> <p>1 believe there was compensation associated with new 2 business. 3 BY MR. KENNEDY: 4 Q. And, sir, before McKesson -- under 5 their 2008 program, before McKesson would sell 6 opioids to a pharmacy, they went through an 7 on-boarding process; did they not? 8 A. Yes. 9 Q. Information was gathered, a 10 questionnaire was filled out that McKesson would 11 review and approve the sale of controlled substances 12 to the pharmacy? That was the process; right? 13 A. As part of CSMP and LDMP, a 14 questionnaire was part of our process. 15 Q. And all the information that was 16 gathered, all the information gathered with respect 17 to prescribing controlled substances, and policies, 18 all of that was gathered by the sales rep; right? 19 A. Generally that is correct. 20 Q. So the person that's going to get a 21 cash bonus if we bring in this new pharmacy, they are 22 the ones doing the investigation of the pharmacy to 23 see whether or not it's safe to sell them controlled 24 substances; true? 25 MS. HENN: Objection to form. Lacks</p>

<p style="text-align: right;">Page 334</p> <p>1 foundation.</p> <p>2 THE WITNESS: Better -- better stated, the</p> <p>3 sales force that we utilized to gather the</p> <p>4 information to conduct the diligence prior to taking</p> <p>5 on a new customer.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. In fact, the salespeople even got the</p> <p>8 information that McKesson used to set these</p> <p>9 thresholds; right? The salespeople were doing that?</p> <p>10 MS. HENN: Objection to form. Lacks</p> <p>11 foundation.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Right?</p> <p>14 MS. HENN: Vague.</p> <p>15 THE WITNESS: As part of the on-boarding</p> <p>16 process and the questionnaire, we asked the sales</p> <p>17 force to collect the data. And, again, our intent</p> <p>18 was very clear. Our sales force understood the</p> <p>19 customers, and they had the ability, and we wanted to</p> <p>20 leverage the resource to collect the data.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. And, in fact, there had to be a visit</p> <p>23 to the pharmacy before you would sell them narcotics,</p> <p>24 and the salespeople were the ones who went out and</p> <p>25 actually visited and inspected the pharmacy; right?</p>	<p style="text-align: right;">Page 336</p> <p>1 Q. And your program had salespeople</p> <p>2 doing the Level 1 Review of the pharmacies; correct?</p> <p>3 A. Again, we would -- we would utilize</p> <p>4 the sales force to help us understand and gain</p> <p>5 information as to why the increase or the threshold</p> <p>6 was -- was exceeded. And but at no time was the</p> <p>7 sales force authorized to approve a threshold</p> <p>8 increase. The information was reviewed by the DRAs.</p> <p>9 They were the sole responsible parties to increase</p> <p>10 thresholds.</p> <p>11 Q. I'm not talking about threshold</p> <p>12 increases. I'm talking about Level 1 investigations</p> <p>13 into a potential suspicious order because a customer</p> <p>14 has ordered over their threshold. You had</p> <p>15 salespeople doing those reviews and investigations;</p> <p>16 did you not, sir?</p> <p>17 MS. HENN: Objection to form. Lacks</p> <p>18 foundation.</p> <p>19 THE WITNESS: The sales force was used not</p> <p>20 exclusively. But the sales force was used to help in</p> <p>21 the Level 1 Review.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. That was a national practice; was it</p> <p>24 not? National practice?</p> <p>25 A. I don't have the specifics. But</p>
<p style="text-align: right;">Page 335</p> <p>1 MS. HENN: Objection to form. Lacks</p> <p>2 foundation.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. Correct, sir?</p> <p>5 A. The sales force was generally the</p> <p>6 first person from McKesson in the pharmacy.</p> <p>7 Q. And McKesson knew and you knew and</p> <p>8 the salespeople knew that if we bring in a new</p> <p>9 customer, number one, I'm going to get a bonus as a</p> <p>10 salesperson for bringing in a new customer, and,</p> <p>11 number two, my sales are going to increase if I get a</p> <p>12 new customer, and I'm going to make more money; you</p> <p>13 all knew that, right?</p> <p>14 MS. HENN: Objection to form.</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. You knew that?</p> <p>17 A. Again, I think that's oversimplifying</p> <p>18 the sales force compensation.</p> <p>19 Q. Now, also built right into your</p> <p>20 program for the salespeople, you told us -- we've</p> <p>21 established this -- that if a pharmacy would order</p> <p>22 over their threshold, then there would be a Level 1</p> <p>23 Review or investigation; correct?</p> <p>24 A. Yes, as part of the review process,</p> <p>25 there would be a Level 1 Review.</p>	<p style="text-align: right;">Page 337</p> <p>1 generally I believe it took place across all of our</p> <p>2 regions.</p> <p>3 Q. And the salespeople didn't want to</p> <p>4 investigate their own customers, because if they</p> <p>5 investigated their customer, the pharmacy may turn</p> <p>6 them in to DEA, then McKesson wasn't going to sell to</p> <p>7 them anymore; right?</p> <p>8 MS. HENN: Objection to form. Lacks</p> <p>9 foundation.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. And the salespeople knew that; right?</p> <p>12 MS. HENN: Lacks foundation.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. Right?</p> <p>15 MS. HENN: And calls for speculation.</p> <p>16 THE WITNESS: I wouldn't agree with that</p> <p>17 statement. The salespeople were very diligent in</p> <p>18 their process and, quite frankly, reported a lot of</p> <p>19 pharmacies to us that they chose not to sign up for</p> <p>20 controlled substances.</p> <p>21 BY MR. KENNEDY:</p> <p>22 Q. You say "they" reported a lot of</p> <p>23 pharmacies to you. The salespeople did?</p> <p>24 A. Yes.</p> <p>25 Q. Sir, I want to -- I'm going to ask</p>

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1 you to assume some facts. And maybe you know this.
2 Do you know that in the two jurisdictions
3 going to trial, in Summit County and Cuyahoga County,
4 that over 1,000 Level 1 investigations should have
5 been done, and not one single one ever got past a
6 Level 1 investigation, not one? Do you understand
7 that? Not one investigation ever got past a Level 1
8 that the sales reps were doing?
9 MS. HENN: Objection to form. Lacks --
10 vague.
11 BY MR. KENNEDY:
12 Q. I will ask you to assume those facts
13 in this case. Do you understand?
14 MS. HENN: Objection to form. Lacks
15 foundation.
16 Go ahead.
17 BY MR. KENNEDY:
18 Q. Do you understand that?
19 MS. HENN: Same objections.
20 THE WITNESS: I don't have any knowledge of
21 that which you are referring to, those documents and
22 those pharmacies.
23 BY MR. KENNEDY:
24 Q. And you said they brought you a lot
25 of information, these salespeople, about pharmacies.

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1 Do you understand that from 2008 to August of 2013,
2 in Cuyahoga County, Summit County in Ohio, not one
3 single pharmacy was ever reported to the DEA for a
4 suspicious order? Do you understand that?
5 MS. HENN: Objection to form.
6 BY MR. KENNEDY:
7 Q. Not one.
8 MS. HENN: Lacks foundation.
9 THE WITNESS: Again, I don't have any
10 specific knowledge on that.
11 BY MR. KENNEDY:
12 Q. Well, when you say these salespeople
13 were bringing you all this information about the
14 pharmacies and doing suspicious things, what parts of
15 the country are you talking about?
16 A. The sales folks from across the
17 country that identified pharmacies that they -- to
18 the Regulatory group.
19 MR. KENNEDY: Let's look at Exhibit 730.
20 I'm going to withdraw that exhibit. Give me
21 732, please.
22 (Exhibit No. 732 was marked.)
23 BY MR. KENNEDY:
24 Q. Do you see this email? This is from
25 you dated 9-17-13; do you see that?

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1 A. Yes.
2 Q. And the next page says, "Controlled
3 Substances Regulatory Org Structure." Do you see
4 that?
5 A. Yes.
6 Q. This is created by you?
7 A. Yes.
8 Q. And this is 2013. And if you go to
9 page -500. Do you see that? Look at the second
10 bullet point. Do you see that second bullet point?
11 A. Yes.
12 Q. In 2013 you write:
13 (Reading) Prior Controlled Substances
14 Monitoring Program process heavily
15 dependent on sales and op (end of
16 reading).
17 Do you see that?
18 A. Yes.
19 Q. And underneath it do you write,
20 "Inconsistent, competency, and conflict of
21 objectives"? Is that what you wrote in 2013, five
22 years into the program?
23 A. I don't recall specifically creating
24 this document, but that's what the document states.
25 Q. And in 2013 you, as the boss of all

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1 of Regulatory, after five years you took sales out of
2 the middle of the monitoring program; didn't you,
3 sir?
4 MS. HENN: Objection to form.
5 THE WITNESS: Again, I don't recall
6 specifically. But I know that we modified our
7 go-forward processes.
8 BY MR. KENNEDY:
9 Q. And, sir, over and above these
10 salespeople that we're talking about, you had -- you
11 had marketing people at McKesson; did you not? We
12 have talked about them.
13 MS. HENN: Objection to forms. Lacks
14 foundation.
15 BY MR. KENNEDY:
16 Q. There were marketing people at
17 McKesson; were there not?
18 A. Yes, there was a marketing
19 department.
20 Q. And while you were trying to control
21 the flow of opioids into the communities and the
22 pharmacy, the marketing people were trying to sell
23 more opioids; were they not?
24 MS. HENN: Objection to form. Lacks
25 foundation.

<p style="text-align: right;">Page 342</p> <p>1 THE WITNESS: No, that's not accurate. 2 MR. KENNEDY: 720. 3 (Exhibit No. 720 was marked.) 4 BY MR. KENNEDY: 5 Q. The first email in time is number one 6 at the bottom. That's where it starts in time. 7 -543462 to -63. 8 This is an email from Scott Mooney, and this 9 is to you, January 16 of 2008, importance high. It 10 states: 11 (Reading) Don, have you seen this one? 12 Special dating and a buy-in on 13 oxycodone? It will probably hit the 14 limits across the network in the 15 Volakas report (end of reading). 16 Is that what he states? 17 A. Yes. 18 Q. And do you respond: 19 (Reading) Given our challenges with 20 DEA, I would -- I would like to review 21 with you how we manage these types of 22 promos going forward (end of reading)? 23 So McKesson is running a promotion on 24 oxycodone; correct? 25 MS. HENN: Objection to form. Lacks</p>	<p style="text-align: right;">Page 344</p> <p>1 for money and does not understand why 2 we would "promote" controlled 3 substances. No immediate changes are 4 planned, but we do need to think 5 through how we handle promos on 6 controls especially lifestyle drugs 7 like oxycodone. Talk with you soon 8 (end of reading)? 9 Was that your response, sir, in 2008? 10 A. That is what is written. 11 Q. Now I want to go to two months later. 12 Tell the jury what fentanyl is? 13 A. Fentanyl is a Schedule 2 narcotic. 14 Q. And is it the most powerful, 15 dangerous of all the narcotics you sell? 16 MS. HENN: Objection to form. Lacks 17 foundation. 18 BY MR. KENNEDY: 19 Q. Is that true, sir? 20 A. I do not know. I know it's a very 21 powerful pain control narcotic. 22 MR. KENNEDY: 714. 23 (Exhibit No. 714 was marked.) 24 BY MR. KENNEDY: 25 Q. There's an email down at the bottom.</p>
<p style="text-align: right;">Page 343</p> <p>1 foundation. 2 BY MR. KENNEDY: 3 Q. Correct? You call it a promo? 4 MS. HENN: Same objection. 5 THE WITNESS: Just a second, Counsel. Let 6 me answer that. 7 We were not -- what we were offering -- and 8 make sure you understand how the industry works. We 9 were offering to our customers the -- what was being 10 offered to us through the manufacturers was dating on 11 oxycodone. We did not promote or push oxycodone, nor 12 do we make any adjustments on thresholds to any 13 customers on the purchases of oxycodone in any of 14 these promotions. 15 BY MR. KENNEDY: 16 Q. Do you call this a promo? I'm just 17 asking, did you use the word "promo"? 18 A. I used the word "promo." 19 Q. And up top do you send an email to 20 Greg Yonko and say: 21 (Reading) Easy, big fella. I know 22 it's been standard and your group does 23 need to be involved. That is why I am 24 suggesting we talk about it. DEA 25 views the industry as doing anything</p>	<p style="text-align: right;">Page 345</p> <p>1 Kenneth Ball. And this is two years after you're 2 saying we've got to discuss promos. And he states: 3 (Reading) Subject: Fentanyl checks. 4 The promotion ran from 6-22 to 7-31 5 and was a free item promotion per the 6 terms below (end of reading). 7 He's talking in 2010 about a buy one, get 8 one free on fentanyl; correct? 9 MS. HENN: Objection to form. 10 BY MR. KENNEDY: 11 Q. Is that what he's talking about? 12 MS. HENN: Objection to form. 13 Mischaracterizing the document. 14 THE WITNESS: I don't -- I'm not sure. I 15 don't understand the promotion that's being referred 16 to here. I can only see what he's written. 17 BY MR. KENNEDY: 18 Q. Up above it says "free item"; right? 19 Free item promotion on fentanyl; correct? Free item 20 promotion; correct, sir? Is that what it says? 21 A. Hang on. Hang on just a minute, 22 Counsel. I'm trying to catch up with you. 23 Okay. Yes, I see that. 24 Q. And up above, in addition to the buy 25 one, get one free, you also sent checks out to</p>

<p style="text-align: right;">Page 346</p> <p>1 pharmacies if they bought fentanyl pursuant to this 2 promotion? 3 MS. HENN: Objection to form. Lacks 4 foundation. 5 BY MR. KENNEDY: 6 Q. Well, look right above. He's talking 7 about checks. 8 MS. HENN: Same objection. 9 THE WITNESS: I think to clarify what he 10 said is -- is rebates, which would be more like off 11 invoice, but -- 12 BY MR. KENNEDY: 13 Q. Well, rebate is money; isn't it? And 14 he says "checks"; does he not? 15 MS. HENN: Objection to form. 16 THE WITNESS: I may be missing it, but I 17 don't see "checks." But -- 18 BY MR. KENNEDY: 19 Q. "Subject: Fentanyl Checks." Do you 20 see that? 21 A. Okay. Under the subject, yes. I 22 didn't see that in the body. 23 Q. This is two years after you're 24 telling the marketing people, we have got to talk 25 about promotions; right? This is now 2010; true? Is</p>	<p style="text-align: right;">Page 348</p> <p>1 that? 2 A. Yes. 3 Q. And does it say, "McKesson OneStop 4 Generics Campaign has been launched"? And then it 5 states: 6 (Reading) Contact customers showing 7 purchase history of Mallinckrodt 8 Oxycodone to highlight the 9 availability of lower-priced oxycodone 10 items (end of reading). 11 Did I read that correctly? 12 A. Yes. 13 Q. And going to the next page, -21. And 14 this is now Mark Odom, with response to this 15 lower-price oxycodone. Does he email and say: 16 (Reading) Are you kidding me!! We are 17 auto shipping oxy, exclamation, 18 exclamation, exclamation (end of 19 reading)? 20 Do you see that? 21 A. I see that. 22 Q. And then email up above says: 23 (Reading) What's going on? Surely we 24 are not promoting Oxy on special (end 25 of reading).</p>
<p style="text-align: right;">Page 347</p> <p>1 that the date of the email? 2 A. That's correct. 3 Q. Let's look to 2012, two years later, 4 two years after that 7-19. 5 A. Again, Counsel, we would not have 6 changed any thresholds on any of our customers in 7 support of any promotions. 8 Q. Mr. Walker, you got fined 9 \$150 million in 2018 for changing thresholds; didn't 10 you? 11 MS. HENN: Objection to form. Lacks 12 foundation. 13 BY MR. KENNEDY: 14 Q. Is that true? Did you get fined 15 \$150 million in 2018, McKesson? 16 A. I wasn't with McKesson at the time. 17 I understand that McKesson paid \$150 million. 18 (Exhibit No. 719 was marked.) 19 BY MR. KENNEDY: 20 Q. Let's go to 719. We're still on 21 promotions. This is two years after the fentanyl 22 promotion. This is now 2012. And look -- I want to 23 start on page -22. This is -539021 to -23. 719. 24 And do you see on -22, the subject, "Lower 25 Priced Oxycodone has been Released"? Do you see</p>	<p style="text-align: right;">Page 349</p> <p>1 Do you see that email? 2 A. Yes, I do. 3 Q. And then you state: 4 (Reading) We agreed to offer the lower 5 price but are not changing any 6 thresholds (end of reading). 7 Is that what you responded? 8 A. Exactly my response. 9 Q. Now, this is 2012. This is four 10 years after you said to marketing, we have got to 11 discuss the promotions; right? 12 MS. HENN: Objection to form. 13 Mischaracterizes the document. 14 THE WITNESS: Yes. 15 BY MR. KENNEDY: 16 Q. Let's go to 2013, a year later. 17 MS. HENN: Could we just get information 18 about how much time is on the record at this point? 19 MR. KENNEDY: I'm going to finish these, and 20 then we are done. 21 MS. HENN: Yeah, I just want to check. 22 MR. KENNEDY: Five minutes left. 23 MS. HENN: Good. But let's get -- 24 MR. KENNEDY: As soon as I wrap this up. 25 MS. HENN: How much time?</p>

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1 THE VIDEOGRAPHER: I think it is ten minutes
 2 left.
 3 MS. HENN: Okay.
 4 (Exhibit No. 721 was marked.)
 5 BY MR. KENNEDY:
 6 Q. Let's go to the next. It's 2013.
 7 This is now a year after the Oxycontin promotion?
 8 THE REPORTER: What's the exhibit number,
 9 please?
 10 MR. KENNEDY: 721.
 11 Q. Down below, November 7, 2013, "SMS
 12 Analytics Group, Dale Harris." And the subject is,
 13 "Campaign Mallinckrodt Hydrocodone has been
 14 Released!"
 15 Dale Harris, it states:
 16 (Reading) McKesson OneStop Generics
 17 Campaign, hydrocodone has been
 18 launched. The campaign will be
 19 effective from 11-8-13 to 11-15-13.
 20 Inform ISMC customers with purchase of
 21 Watson hydrocodone of the savings on
 22 Mallinckrodt hydrocodone (end of
 23 reading).
 24 Do you see that? And then up above that,
 25 does Dale Harris send an email from McKesson,

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1 stating:
 2 (Reading) Thought you might want to
 3 see that we're pushing hydrocodone
 4 with ISMC calls again (end of
 5 reading)?
 6 And that is the independent small, medium
 7 chains; right? Did I read that right?
 8 A. The ISM.
 9 Q. And then up above does Tom Smith --
 10 who is Tom Smith?
 11 A. Tom was the head of sales or general
 12 manager. General Manager with our Birmingham
 13 facility.
 14 Q. And does he say, "This is silly"?
 15 A. That's what's written.
 16 Q. Sir, this is 2013 when he says, "This
 17 is silly"; correct?
 18 A. That's what's written.
 19 Q. It's more than silly in 2013, isn't
 20 it? Running a promotion pushing hydrocodone on
 21 pharmacies, it's more than silly; isn't it? Could we
 22 agree that that --
 23 A. No, I don't agree because it's a
 24 mischaracterization of what -- of the promo -- or as
 25 you call it, a promo.

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1 These were opportunities for pharmacies to
 2 obtain product at a reduced price. It didn't change
 3 the threshold. It was simply to provide them an
 4 opportunity to provide legitimate medications to
 5 customers at a lower price.
 6 Q. At this point in time, when he says
 7 "This is silly," what -- strike that for a second.
 8 You described this as a legitimate way to
 9 get more hydrocodone to pharmacies. Tom Smith --
 10 A. No.
 11 Q. -- doesn't agree this is a legitimate
 12 way to get more hydrocodone. He says it's silly;
 13 right?
 14 MS. HENN: Objection to form.
 15 THE WITNESS: Counsel, you asked me two
 16 questions.
 17 The first question, no, this was not an
 18 opportunity to get more hydrocodone to pharmacies.
 19 This was an opportunity for pharmacies to purchase
 20 the hydrocodone that they required, and we monitored,
 21 at a price that was reduced to give them an
 22 opportunity from a business standpoint.
 23 BY MR. KENNEDY:
 24 Q. Well, you've got one McKesson
 25 employee who says, you're pushing hydrocodone. You

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1 have another one saying, silly. Do you disagree with
 2 them?
 3 A. I see what his -- what is written. I
 4 don't agree with "pushing" hydrocodone.
 5 Q. Do you know how many people
 6 hydrocodone was killing a year at the time of this --
 7 of this promotion in 2013? Do you know that?
 8 A. No, I don't have any specific
 9 information on that.
 10 MR. KENNEDY: Let's look at 718. We are
 11 still in 2013.
 12 (Exhibit No. 718 was marked.)
 13 BY MR. KENNEDY:
 14 Q. This is Exhibit 718, -546932 to -34.
 15 And since 2013, five years ago, you said you want to
 16 talk to the marketing people about promotions; right?
 17 You said that five years ago, I want to talk to them
 18 about promotions; remember?
 19 MS. HENN: Objection to form. Lacks
 20 foundation.
 21 THE WITNESS: In my prior email we reviewed,
 22 I indicated to Mr. Yanko that we would have a
 23 conversation around promotional incentives with
 24 certain controlled substances. I did.
 25 We clarified very clearly at that time that

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1 we were not going to make any regulatory adjustments
2 regarding thresholds. And our customers could take
3 advantage of the pricing but could not change their
4 threshold as a result of promotion.
5 BY MR. KENNEDY:
6 Q. And if that's the agreement here with
7 marketing, you still have folks at McKesson saying
8 this is silly, we're pushing hydrocodone. And let's
9 see what they say again.
10 The first email on this page, 2013, this is
11 from Lisa Vicicondi at McKesson, and she says:
12 (Reading) Here is an example of what
13 Spence and I were talking about.
14 Seems counterintuitive (end of
15 reading).
16 And the subject is the Mallinckrodt
17 hydrocodone has been released.
18 Now, move up above, and David Kelly in
19 response -- and he's a VP in Sales -- he sends an
20 email to Dave Gustin in Regulatory, and he says that:
21 (Reading) The inside sales team is
22 running a hydrocodone promotion this
23 week (end of reading).
24 That's not my word, that's his; correct?
25 That's his word, "promotion"?

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1 A. That's what's written.
2 Q. (Reading) You might want to reach
3 out and let them know that this might
4 not be a good idea (end of reading).
5 Then up above, now Gustin is writing you on
6 11-11-13, and says:
7 (Reading) Don, I believe you have
8 addressed this with them before,
9 question mark, question mark (end of
10 reading).
11 So you're telling us that you addressed
12 these promotions with them before, and you agreed
13 that these would be allowed? Is that what you agreed
14 to with marketing with respect to opioid promotions?
15 MS. HENN: Objection to form. Lacks
16 foundation.
17 THE WITNESS: Counsel, these pharmaceuticals
18 continue to be on the market. They have and continue
19 to have a very legitimate purpose. Our Controlled
20 Substance Monitoring Program was very specific that
21 we would not change thresholds without the
22 appropriate justification.
23 And a promotion, we did not change
24 thresholds to accommodate any promotional
25 opportunity. What we provided was a business

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1 opportunity for pharmacies to ensure they could get
2 medications they required, and potentially at a
3 reduced price.
4 BY MR. KENNEDY:
5 Q. And, sir, when you say you are not
6 going to change thresholds without justification, let
7 me ask you very clearly, isn't it true that McKesson
8 got fined \$150 million in a 2018 agreement based upon
9 conduct, increasing thresholds without
10 documentations, during this very time period, 2012,
11 2013, 2014?
12 MS. HENN: Objection to form. Lacks
13 foundation.
14 BY MR. KENNEDY:
15 Q. Do you recall that?
16 A. Counsel, as I -- as I answered, the
17 agreement or document of 2014 or '15, whatever it
18 was, I was not with the company. I have no specific
19 knowledge of the settlement.
20 I do know that McKesson paid 150. I do not
21 understand or have reviewed the details of that
22 settlement.
23 MS. HENN: Counsel, I think we're about at
24 time, if you want to ask your last question.
25 MR. KENNEDY: All done.

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1 MS. HENN: Great. So I guess we will go off
2 the record.
3 THE VIDEOGRAPHER: We are going off the
4 record. The time is 5:34 p.m.
5 (Recess taken.)
6 THE VIDEOGRAPHER: We are back on the
7 record. The time is 5:54 p.m.
8 EXAMINATION
9 BY MS. HENN:
10 Q. Good evening, Mr. Walker.
11 A. Good evening.
12 Q. Mr. Walker, you testified earlier
13 today that you joined McKesson in 1987; is that
14 correct?
15 A. That is correct.
16 Q. Before joining McKesson, where did
17 you work?
18 A. Prior to -- immediately prior to
19 working for McKesson, I worked for a grocery
20 wholesale distributor, a trucking company. And then
21 prior to that, I spent ten years in law enforcement.
22 Q. What roles did you play in law
23 enforcement?
24 A. I was a city police officer in a city
25 in the East Bay of San Francisco.

<p style="text-align: right;">Page 358</p> <p>1 Q. Back to your time at McKesson. Could 2 you describe for the jury the various positions you 3 held at McKesson beginning in 1987. 4 A. 1987 I joined the company with a 5 subsidiary company in the transportation group, 6 transportation and warehousing. And that company 7 transitioned to the McKesson Drug Company in roughly 8 1991. Was in a staff role for a short period of 9 time, a staff role in transportation. 10 Then I became the Distribution Center 11 Manager in Sacramento, promoted to the Vice President 12 of Distribution Operations for the Western Region. 13 It was a newly-created position. 14 And subsequently, in roughly 1996, I was 15 promoted to the Senior Vice President of Distribution 16 for McKesson Pharmaceutical. 17 Q. And when did you become Senior Vice 18 President of Distribution for McKesson 19 Pharmaceutical? 20 A. It was 1996. I don't remember 21 exactly when in '96. 22 Q. And that was also the position you 23 held when you retired from McKesson; is that correct? 24 A. Yes, it was. 25 Q. When did you retire?</p>	<p style="text-align: right;">Page 360</p> <p>1 Regulatory Affairs Group was in there, and I had a 2 group that was responsible for construction and 3 building of our distribution centers. 4 Q. You mentioned Regulatory Affairs. 5 What kind of regulatory affairs matters were you 6 responsible for as Senior Vice President of 7 operations -- distribution operations, I should say? 8 A. McKesson, and the wholesalers as an 9 industry, are highly regulated. We have 10 responsibilities for a number of regulatory 11 requirements. The FAA, the Department of 12 Transportation, DOT, OSHA. We had hazardous material 13 requirements. Certainly we had responsibility for 14 compliance with DEA regulations. And various state 15 and local regulations as well. 16 Q. What was involved in the handling of 17 controlled substances in particular? 18 A. Our -- our distribution network in 19 handling controlled substances was complex. The 20 requirements under the federal code ensure -- wanted 21 to ensure that we had systems in place to prevent 22 diversion, primarily around security, as the code 23 spelled out. 24 And so the inside of our buildings, the 25 controlled substances divided into two major areas.</p>
<p style="text-align: right;">Page 359</p> <p>1 A. June of 2015. 2 Q. You've mentioned today that your 3 former employer, McKesson, is a wholesale distributor 4 of pharmaceuticals. Can you describe how that 5 business operates at a high level? 6 A. At a high level, McKesson, as the 7 other major distributors operate, we purchase 8 pharmaceuticals and medicines from the manufacturers. 9 We virtually warehoused all of the various 10 medications of manufacturers in our warehouses. 11 And on a daily basis, we supplied those 12 pharmaceuticals to pharmacies. And the major groups 13 of pharmacies that we had were -- are independent 14 pharmacies, single owner; or generally our retail 15 national account customers, which were the large 16 chains, like Rite Aid, and CVS and Walmart; our 17 hospital group; and then the federal government. 18 Q. And briefly, what were your job 19 responsibilities as Senior Vice President of 20 distribution operations at McKesson? 21 A. I was the senior staff operations 22 person for McKesson. I had the overall 23 responsibility for the distribution network. 24 On my staff I had a support team made up of 25 a Transportation Group, an I.T. Support Group, our</p>	<p style="text-align: right;">Page 361</p> <p>1 One, in what we called the narcotics Class 2 2 controlled substances were stored in a vault, much 3 like a bank vault, and the balance of the controlled 4 substances were stored in a locked and secured cage. 5 There was requirements for alarm. The physical -- 6 the physical construction of both the vault and the 7 cage were specified under regulation. 8 And, in addition, we had reporting 9 requirements to the DEA, the ARCOS reporting, which 10 was the month-end reporting of all of our sales. We 11 needed to reconcile all of our receipts and all of 12 our sales and our inventory, along with the physical 13 inventory, to ensure that we could account for each 14 and every one of the controlled substances that was 15 in our possession that was reportable. 16 We had reporting requirements on suspicious 17 orders. Our suspicious order reporting we called at 18 the time -- prior to 2008 we gave it a moniker that 19 said -- basically a report number called DU45, and we 20 provided that suspicious order reporting to the local 21 DEA field offices, as required. 22 Q. And you described the DU45 report. 23 What was the DU45 report exactly? 24 A. The DU45 was a report that reviewed 25 sales of customers' purchases of controlled</p>

<p style="text-align: right;">Page 362</p> <p>1 substances. And based on an algorithm that had been 2 developed many years ago, I'm not sure when, 3 identified any sales that might have been of unusual 4 size, frequency, or a pattern, to ensure that we were 5 complying with that portion of the Federal 6 Regulation.</p> <p>7 Q. And over what period did McKesson 8 generate the DU45 report for the purpose of reporting 9 to DEA?</p> <p>10 A. I'm not certain when we started to 11 provide that report. But during my tenure there, 12 we -- at McKesson we provided that report up until 13 the 2008 time frame, at which time, as a result of 14 our Settlement Agreement with DEA, we ceased 15 providing that report to the DEA.</p> <p>16 Q. When you first became Senior Vice 17 President of Distribution Operations back in 1996, 18 what was McKesson's relationship with the DEA like?</p> <p>19 A. I think I would best describe that 20 relationship as collaborative. On a regular basis 21 our distribution centers could engage local field 22 offices on inquiries and questions.</p> <p>23 Conversely, DEA would contact us at a 24 headquarters level, our senior management, my 25 predecessor. And my regulatory team could pick up</p>	<p style="text-align: right;">Page 364</p> <p>1 Washington, D.C., in which we reviewed the Florida 2 and the Internet pharmacies and -- with 3 Mr. Rannazzisi and other members of his staff.</p> <p>4 Q. Who -- other than the people you just 5 mentioned, who attended that January 2006 meeting? 6 Maybe starting from McKesson.</p> <p>7 A. My recollection is I attended; Bill 8 Mahoney, who was our Distribution Center Manager in 9 Florida; John Gilbert, who is our outside counsel; 10 and I believe that Gary Hilliard, who was on our 11 Regulatory team, also participated in that meeting 12 from McKesson.</p> <p>13 From DEA, Mr. Rannazzisi, their outside 14 counsel, and one or two other members of his 15 Diversion Control staff.</p> <p>16 Q. What message did you take out of the 17 January 2006 meeting at DEA headquarters?</p> <p>18 A. I -- the messages that I took out 19 were several. First and foremost, was DEA's concern, 20 it was very clear to us, over the Internet pharmacies 21 that they identified in Florida. You know, 22 Mr. Rannazzisi unexpectedly asked to have us 23 surrender our DEA registration for our Florida 24 Distribution Center.</p> <p>25 And in the course of discussions, there were</p>
<p style="text-align: right;">Page 363</p> <p>1 the phone and have conversations back and forth with 2 the DEA regarding various matters.</p> <p>3 Q. And how, if at all, did McKesson's 4 relationship with the DEA change over time?</p> <p>5 A. Well, in the -- it clearly in the 6 2005 -- late 2005/2006 time frame, after the new 7 administrator was in place, I would say McKesson's 8 relationship with DEA became more confrontational.</p> <p>9 Q. And you described earlier to 10 Mr. Kennedy that you had a five-year period, I think 11 it was, when you ran McKesson's Six Sigma program; is 12 that correct?</p> <p>13 A. That's correct. Roughly, in 2000 to 14 2005 I was not the Senior Vice President of 15 Operations, Distribution Operations, and did not have 16 responsibility for Regulatory during that time frame, 17 but was responsible for our Six Sigma process 18 improvement.</p> <p>19 Q. So starting with your return to the 20 Senior Vice President of Distribution Operations' 21 position in 2005, what interactions did you 22 personally have with DEA?</p> <p>23 A. The first personal interaction I had 24 with DEA was the -- was the January 6, 2000 -- or 25 excuse me, January 2006 meeting that we had in</p>	<p style="text-align: right;">Page 365</p> <p>1 a couple of key themes that came out. One is that we 2 had a responsibility to -- which it, quite frankly, 3 was the first that we had ever heard from DEA that 4 we -- you know, his statement was, why would you ever 5 ship an order that you identified as suspicious? And 6 he viewed our DU45 report as inadequate and not 7 meeting the -- their needs.</p> <p>8 He -- and, again, this is the first that we 9 had had any indication, after many, many years of 10 providing it, that there was any concern over our 11 DU45, our suspicious order reporting.</p> <p>12 Q. You mentioned that Mr. Rannazzisi, or 13 DEA, expressed that the DU45 report was inadequate. 14 What -- what was the issue that DEA raised with the 15 DU45 report?</p> <p>16 A. I think it was -- as I -- as I 17 interpreted the discussion, it was really a matter of 18 just the volume -- he used the term "excessive order 19 report," and that the volume of data was -- was not 20 usable, you know, to DEA. And it was just -- didn't 21 view it as a valuable report to -- you know that they 22 could use to follow up on.</p> <p>23 Q. And so in the area of suspicious 24 order reporting, what was the message you received 25 from DEA at the January 2006 meeting?</p>

<p style="text-align: right;">Page 366</p> <p>1 A. I came away from there that -- with a 2 very clear view that report only orders that are 3 truly suspicious. That the requirement for -- the 4 bar for reporting suspicious orders, because of his 5 statement that, you know, we -- a suspicious order, a 6 suspicious customer should not receive any controlled 7 substances, we went away from there with a very 8 serious view around correlating the suspicious orders 9 with ceasing selling controlled substances to a 10 customer.</p> <p>11 Q. So you've described a message that 12 once deemed suspicious, an order should not be 13 shipped. And you've described a message that, I 14 think you said, a customer should not receive any 15 order of controlled substances if an order placed is 16 deemed suspicious?</p> <p>17 A. No. If we -- if we deem that 18 customer to have a suspicious pattern of orders or a 19 business model that was suspicious, then we should 20 cease selling controlled substances to them 21 altogether.</p> <p>22 Q. And you mentioned that some of these 23 messages, it was the first time you had heard these 24 things. And could you describe your reaction to 25 these messages that you've explained today.</p>	<p style="text-align: right;">Page 368</p> <p>1 that the DEA didn't make any changes in their DEA 2 registration, but we made the choice to cease selling 3 controlled substances to them.</p> <p>4 We initiated -- we went back and initiated 5 the development of a new program, which evolved into 6 what we called the LDMP, which was the Lifestyle Drug 7 Monitoring Program. And primarily named because 8 during the meeting the DEA had used the term 9 "lifestyle drugs" to identify four drugs of concern 10 that they identified as part of the Internet 11 pharmacy, being the oxycodone, the hydrocodone, 12 pyrazoline and Phentermine.</p> <p>13 MS. HENN: I'd like to show you an exhibit. 14 Let's get this marked as 84.</p> <p>15 THE REPORTER: 804.</p> <p>16 MS. HENN: 804. Thank you.</p> <p>17 (Exhibit No. 804 was marked.)</p> <p>18 BY MS. HENN:</p> <p>19 Q. Mr. Walker, the court reporter handed 20 you an Exhibit No. -- that's been marked 804. The 21 Bates number is -571361 through -65.</p> <p>22 MR. KENNEDY: Counsel, 804, is this a 23 defense exhibit?</p> <p>24 MS. HENN: It is.</p> <p>25 MR. KENNEDY: Okay. Defense Exhibit 804.</p>
<p style="text-align: right;">Page 367</p> <p>1 A. Well, the first reaction I had was it 2 was significantly different than the interaction that 3 we had had with DEA in the past. It was clear that 4 there was a different view of the distributors. And 5 from that we really made the determination that we 6 needed to go back and follow up and review our 7 processes and our -- in order to try to, you know -- 8 the message was, from the DEA, is that there's an 9 issue. We're trying to solve it.</p> <p>10 Our view was, is we've always collaborated 11 with DEA. So I took what was being said and tried 12 to, without specific guidance from them, to establish 13 a go-forward modification to our overall monitoring 14 program.</p> <p>15 Q. So did you take -- why don't you 16 describe any actions that you took following up on 17 that January 2006 meeting and the messages that you 18 received.</p> <p>19 A. Specifically after the meeting in 20 2007, we went back, and we immediately conducted 21 additional review and site visits to the pharmacies 22 that they had identified to us during the meeting.</p> <p>23 We subsequently ceased selling controlled 24 substances to those pharmacies and reported such to 25 the DEA. Even though the -- you know, we learned</p>	<p style="text-align: right;">Page 369</p> <p>1 THE REPORTER: I just continued, if that's 2 okay, on the sequence.</p> <p>3 MR. KENNEDY: Oh, okay.</p> <p>4 BY MS. HENN:</p> <p>5 Q. Mr. Walker, do you recognize 6 Exhibit 804?</p> <p>7 A. Yes, I do.</p> <p>8 Q. What is Exhibit 804?</p> <p>9 A. This is a letter from Paul Julian, 10 our President, one of the senior members of McKesson, 11 to Mr. Rannazzisi in response to the meeting that we 12 had with DEA, in which he -- at a high level what he 13 has done is summarize the actions that we have taken, 14 how seriously we viewed the meeting, and how 15 seriously we reviewed -- or viewed our regulatory 16 obligations, and provided him examples of actions 17 that we had taken subsequent to the meeting.</p> <p>18 Q. And at the time this letter was sent 19 to Mr. Rannazzisi, did you receive a copy of this 20 letter?</p> <p>21 A. Yes, I did. I was -- I believe I was 22 copied on the letter.</p> <p>23 Q. On the --</p> <p>24 A. Yes. Yes, I was.</p> <p>25 Q. Okay. Turning to the second page of</p>

<p style="text-align: right;">Page 370</p> <p>1 the letter, page 2. Could you read what McKesson's</p> <p>2 Mr. Julian writes to Mr. Rannazzisi in the first</p> <p>3 paragraph.</p> <p>4 MR. KENNEDY: Objection.</p> <p>5 THE WITNESS: (Reading) In this regard I</p> <p>6 must rebut any impression that</p> <p>7 McKesson has not seriously considered</p> <p>8 and responded to the information</p> <p>9 provided by DEA about the</p> <p>10 management -- about the problem of</p> <p>11 "Internet pharmacies." After the</p> <p>12 September meeting with DEA, senior</p> <p>13 management responsible for all</p> <p>14 McKesson distribution centers were</p> <p>15 provided with the -- with a summary of</p> <p>16 the issues raised by the DEA about</p> <p>17 Internet pharmacies and DEA's view of</p> <p>18 what constitutes an illegal Internet</p> <p>19 pharmacy. Additionally, discussions</p> <p>20 on the appropriate next steps were</p> <p>21 reviewed and included running regional</p> <p>22 sales reports based on the criteria</p> <p>23 provided by DEA. At the September</p> <p>24 meeting, DEA identified Colorado</p> <p>25 pharmacies by name. Upon notification</p>	<p style="text-align: right;">Page 372</p> <p>1 THE WITNESS: (Reading) On November 21st,</p> <p>2 2005, DEA notified McKesson through</p> <p>3 outside counsel that DEA was extremely</p> <p>4 concerned about excessive distribution</p> <p>5 of hydrocodone products to six</p> <p>6 specific pharmacies in the Tampa,</p> <p>7 Florida area. There's a footnote.</p> <p>8 McKesson immediately imposed a</p> <p>9 limitation on all of these pharmacies</p> <p>10 and cut the sales of hydrocodone to</p> <p>11 these pharmacies to only 10 percent of</p> <p>12 their prior orders. McKesson also</p> <p>13 began an investigation of all these</p> <p>14 pharmacies which included requesting</p> <p>15 additional information from the</p> <p>16 pharmacies about their customers and</p> <p>17 steps taken to verify that their --</p> <p>18 that the prescriptions filled are</p> <p>19 legitimate. McKesson sales managers</p> <p>20 have been visiting the accounts</p> <p>21 inquiring into the nature of their</p> <p>22 business activity (end of reading).</p> <p>23 BY MS. HENN:</p> <p>24 Q. And you mentioned there's a footnote</p> <p>25 in that paragraph. If you could read that footnote</p>
<p style="text-align: right;">Page 371</p> <p>1 that DEA had suspended the</p> <p>2 registration of these pharmacies,</p> <p>3 McKesson immediately terminated the</p> <p>4 authority for these Colorado</p> <p>5 pharmacies to order controlled</p> <p>6 substances from McKesson (end of</p> <p>7 reading).</p> <p>8 BY MS. HENN:</p> <p>9 Q. And, Mr. Walker, I think you had</p> <p>10 told -- you had testified, in response to</p> <p>11 Mr. Kennedy's questions, that you were not present at</p> <p>12 the September 2005 meeting between McKesson and the</p> <p>13 DEA; is that correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Were you involved in any of the steps</p> <p>16 described in Mr. Julian's letter to the DEA,</p> <p>17 following that September 2005 DEA meeting?</p> <p>18 A. I don't recall specifically being</p> <p>19 involved in the -- in the steps related to the</p> <p>20 Colorado pharmacies.</p> <p>21 Q. Moving down to the paragraph -- the</p> <p>22 third paragraph on this page, starting with, "On</p> <p>23 November 21st, 2005." Could you read that paragraph</p> <p>24 that Mr. Julian wrote to Mr. Rannazzisi at the DEA.</p> <p>25 MR. KENNEDY: Objection.</p>	<p style="text-align: right;">Page 373</p> <p>1 to yourself. My question for you is whether you're</p> <p>2 familiar with what's described in Footnote 1?</p> <p>3 A. Yes. During -- during this same time</p> <p>4 frame, there was a number of different events that</p> <p>5 were affecting the country. Hurricane Katrina had</p> <p>6 just gone through, and specifically in Tampa, Florida</p> <p>7 and Northern Florida was -- hurricane Wilma was</p> <p>8 coming through. It was our normal practice with</p> <p>9 customers where we anticipate, particularly with</p> <p>10 hurricanes, where we anticipate that there was going</p> <p>11 to be a business interruption due to the storm, for</p> <p>12 them to ensure that they ordered in advance and</p> <p>13 stocked their pharmacies so that after the hurricane</p> <p>14 passed, that they could come up back into business as</p> <p>15 quickly as possible, particularly because their --</p> <p>16 the need becomes very great post hurricanes for</p> <p>17 certain medications.</p> <p>18 And there was a concern expressed around the</p> <p>19 quantities to one of the pharmacies, United</p> <p>20 Prescription, where we sold a significant quantity in</p> <p>21 a short amount of time. But at the same time, right</p> <p>22 after the hurricane passed, and subsequent to that,</p> <p>23 the volume that the pharmacy purchased dropped</p> <p>24 dramatically.</p> <p>25 MR. KENNEDY: I'm going to move to strike.</p>

<p style="text-align: right;">Page 374</p> <p>1 BY MS. HENN:</p> <p>2 Q. Mr. Walker, setting aside this</p> <p>3 letter. In your testimony a few minutes ago, you</p> <p>4 referred to the Lifestyle Drug Monitoring Program.</p> <p>5 Could you describe the general contours of the</p> <p>6 Lifestyle Drug Monitoring Program.</p> <p>7 A. We -- this was really the beginning</p> <p>8 of our overall control of the monitoring program. We</p> <p>9 focused on the four lifestyle drugs that had been</p> <p>10 identified in the January meeting. We established a</p> <p>11 mechanism of thresholds DEA had shared with us in</p> <p>12 the -- in the meetings that we had had, that they</p> <p>13 viewed that the average pharmacy purchases per month</p> <p>14 for a given -- for across the nation for these</p> <p>15 certain drugs is about 5,000 dose units.</p> <p>16 Our own internal data we reviewed, it was --</p> <p>17 the average was closer to 8,000 dose units for our</p> <p>18 customer base. And we then used the information, the</p> <p>19 data, to establish these thresholds.</p> <p>20 We then ran -- we monitored the sales in</p> <p>21 terms of dose units purchased, which required a</p> <p>22 significant change in -- from a systems standpoint</p> <p>23 because we had to combine all of the individual</p> <p>24 items, unique items, that constitute a given base</p> <p>25 code. So basically all the brand, generic, all the</p>	<p style="text-align: right;">Page 376</p> <p>1 the January 2006 meeting, you learned that DEA was</p> <p>2 not satisfied with McKesson's DU45 report. Do you</p> <p>3 remember explaining that?</p> <p>4 A. Yes, I do.</p> <p>5 Q. Did the 2008 Settlement Agreement</p> <p>6 have provisions in it about what was to replace the</p> <p>7 DU45 reporting?</p> <p>8 A. Specifically in the Settlement</p> <p>9 Agreement, it was agreed that there would be a</p> <p>10 significant change in suspicious order reporting.</p> <p>11 That at an agreed-upon time, we would cease providing</p> <p>12 them a -- the DU45 suspicious order reporting, and we</p> <p>13 would replace it with a format that was mutually</p> <p>14 agreed upon between the two parties.</p> <p>15 And probably the most significant change was</p> <p>16 that we would no longer report suspicious orders to</p> <p>17 field offices, as stated in the regulation because,</p> <p>18 in fact, that we would be reporting directly to DEA</p> <p>19 headquarters. And from that, we recognized that</p> <p>20 there would be a mutual effort from the two I.T.</p> <p>21 groups, being DEA and McKesson, to develop the</p> <p>22 system's interface to execute the suspicious order</p> <p>23 reporting.</p> <p>24 MS. HENN: I'd like to mark as Exhibit 805,</p> <p>25 Defense Exhibit 805, a copy of the Settlement and</p>
<p style="text-align: right;">Page 375</p> <p>1 items that were, for example, hydrocodone, had to be</p> <p>2 collated together and multiplied out in terms of the</p> <p>3 base -- the dose units. A complex process.</p> <p>4 But we -- we then ran reports on a monthly</p> <p>5 basis to ensure that it identified any customers that</p> <p>6 exceeded their threshold. From that we conducted</p> <p>7 additional follow-up, and to review. And we also</p> <p>8 instituted our -- the beginning of our questionnaire</p> <p>9 process for new customers and the regulatory review</p> <p>10 process that evolved into CSMP.</p> <p>11 Q. Why did you take these actions</p> <p>12 following the January 2006 meeting with DEA?</p> <p>13 A. It was our -- our intent to be very</p> <p>14 responsive to -- we had long taken guidance from DEA</p> <p>15 and taken it seriously. So from that meeting, we</p> <p>16 determined that we needed to take actions that would</p> <p>17 address the issues that were raised by DEA during</p> <p>18 that meeting. And that was, you know, a very focused</p> <p>19 part of our effort.</p> <p>20 Q. Mr. Kennedy had a lot of questions</p> <p>21 for you earlier today about a 2008 Settlement</p> <p>22 Agreement between McKesson and the DEA. Do you</p> <p>23 recall those questions?</p> <p>24 A. Yes.</p> <p>25 Q. You've explained that as a result of</p>	<p style="text-align: right;">Page 377</p> <p>1 Release Agreement from 2008.</p> <p>2 (Exhibit No. 805 was marked.)</p> <p>3 BY MS. HENN:</p> <p>4 Q. Mr. Walker, do you recognize</p> <p>5 Exhibit 805? The Bates number is -516360.</p> <p>6 A. Yes, I do.</p> <p>7 Q. Were you involved -- or let me just</p> <p>8 ask you, what was your involvement in the process</p> <p>9 that led to this 2008 Settlement Agreement with the</p> <p>10 DEA?</p> <p>11 MR. KENNEDY: Okay. Just to interrupt.</p> <p>12 This has already been marked, do you understand? So</p> <p>13 you have -- this exhibit will be marked twice?</p> <p>14 MS. HENN: I'm not sure it's the same Bates</p> <p>15 numbered version, but --</p> <p>16 MR. KENNEDY: All right.</p> <p>17 MS. HENN: -- that's fine.</p> <p>18 Q. Did you want me to repeat the</p> <p>19 question?</p> <p>20 A. No. I think I remember your</p> <p>21 question.</p> <p>22 Q. Okay.</p> <p>23 A. My -- my role in the overall</p> <p>24 Settlement Agreement was to provide feedback to</p> <p>25 counsel, who was interacting with DEA counsel, and to</p>

<p style="text-align: right;">Page 378</p> <p>1 primarily focus on operationalizing the commitments 2 that we were negotiating, making in the -- in the 3 agreement. 4 Q. And in the agreement you mentioned 5 there were provisions dealing with suspicious order 6 reporting. Could you point us to those provisions 7 that you were referring to? 8 A. Well, the first is -- is under "Terms 9 and Conditions" on page 3, 1(a), Obligations of 10 McKesson to -- Obligations of McKesson. And (a) -- 11 do you want me to read this, Counsel, or -- 12 Q. Yes, please. 13 A. (Reading) McKesson agrees to 14 maintain a compliance program designed 15 to detect and prevent diversion of 16 controlled substances as required 17 under the CSA and applicable DEA 18 regulations. This program shall 19 include procedures for -- to review 20 orders for controlled substances. 21 Orders that exceed established 22 thresholds and criteria will be 23 reviewed by a McKesson employee 24 trained to detect suspicious orders 25 for the purposes of determining</p>	<p style="text-align: right;">Page 380</p> <p>1 unless and until advised otherwise in 2 writing by DEA headquarters. DEA 3 agrees to notify all of the DEA Field 4 Offices within 30 days of the 5 effective date of this agreement that 6 McKesson will no longer be required to 7 provide suspicious order reports or 8 any other types of reports regarding 9 excessive purchases or controlled 10 substances to the DEA Field Offices, 11 and that this agreement shall 12 supersede any DEA regulatory 13 requirements to report suspicious 14 orders to DEA (end of reading). 15 Q. Mr. Walker, where had the DU45 16 report, that you described earlier, where had that 17 been reported or to whom had that been reported when 18 it was being used at McKesson? 19 A. In compliance with the regulation 20 that specified we would send them to the local field 21 office, those -- those reports went directly to the 22 effective -- or the respective local field offices 23 for that DC. 24 Q. And we will get to in a minute the 25 new program that was put in place for reporting</p>
<p style="text-align: right;">Page 379</p> <p>1 whether such orders should not be 2 filled and reported to the DEA or, 3 based on a detailed review, the order 4 is for a legitimate purpose and the 5 controlled substances are not likely 6 to be diverted into other than 7 legitimate medical, scientific, and 8 industrial channels. Orders 9 identified as suspicious will be 10 reported to the DEA as discussed in 11 subsection II (end of reading). 12 Do you want me to continue? 13 This compliance program shall apply -- 14 Q. Actually, Mr. Walker, I would like to 15 stick on the subject of suspicious orders. So let's 16 continue to that cross-reference. 17 A. Okay. II.1(c). II.1(c): 18 (Reading) McKesson shall inform DEA of 19 suspicious orders as required by 21 20 C.F.R in a format mutually and 21 responsibly agreed upon by the 22 parties, except that contrary to DEA 23 regulations, McKesson shall inform DEA 24 headquarters rather than the local 25 field office of suspicious orders,</p>	<p style="text-align: right;">Page 381</p> <p>1 suspicious orders. 2 You have described the Lifestyle Drug 3 Monitoring Program. Earlier today Mr. Kennedy asked 4 you a lot of questions about the next program that 5 McKesson developed. That was called what? 6 A. The Controlled Substance Monitoring 7 Program, or CSMP. 8 Q. What was the difference between the 9 new CSMP program that was put into place and the 10 LDMP, or Lifestyle Drug Monitoring Program? 11 A. There were a number of things that -- 12 that were done at that time. First, the difference 13 specifically in the programs is we continued to use 14 the concept of thresholds to monitor specific orders. 15 The significant difference was that we created a 16 systemic solution to total the dose units purchased 17 by a given pharmacy on a given controlled 18 substances -- substance. And if the order that was 19 generated at any given time caused the pharmacy to go 20 above the threshold, that entire order was blocked. 21 The blocking of orders was a piece. 22 We had -- we continued to have the 23 three-part review. The difference being is that the 24 blocked order triggered a review process, but we 25 still maintained a three-tiered escalation process</p>

<p style="text-align: right;">Page 382</p> <p>1 and how we would report to the DEA. 2 We enhanced the questionnaire and document. 3 And it -- outside of specifically the CSMP, but our 4 overall regulatory effort, we invested, well, 5 significantly in the I.T. effort to solve the CSMP 6 I.T. side, but we also expanded our regulatory force, 7 adding the four new directors of Regulatory Affairs, 8 one assigned to each region. 9 Q. And we looked at the provisions of 10 the 2008 agreement. That's still in front of you. 11 What actions did McKesson take to implement those 12 provisions, specifically dealing with suspicious 13 order reporting? 14 A. To -- to create this mutually agreed 15 upon format, we designated an I.T. team, led by an 16 individual on my staff, who was going to interact 17 with the DEA I.T., lead from DEA that they 18 identified, to just fundamentally work through all 19 the technology interfaces. Getting two systems to 20 speak to one another is not an easy task. It is 21 complex, making sure that the data that was being 22 sent to DEA was understood by DEA, that they could 23 recognize it, were some of the pieces that needed to 24 take place. 25 So we had a fairly significant I.T. team and</p>	<p style="text-align: right;">Page 384</p> <p>1 could talk back and forth. And I think in January of 2 2009 is when we ceased providing DU45. 3 MS. HENN: Let's mark another exhibit, 4 No. -- Defense Exhibit 806. 5 (Exhibit No. 806 was marked.) 6 BY MS. HENN: 7 Q. Mr. Walker, you've been handed 8 Defense Exhibit 806, which is Bates 9 No. McKesson-WVA-167. 10 Do you recognize this document? 11 A. Yes, I do. 12 Q. What is this? 13 A. This is a memo from -- or an email 14 memo from me to our field distribution teams and 15 distribution centers advising them that -- this is 16 dated January 22nd of '09 -- that we would no longer 17 be providing the DEA with the end-of-month DU45 or 18 the Suspicious Order Report, and that our new 19 reporting mechanism was in place and established as 20 part of our agreement with DEA, and directed the DCs 21 not to submit those reports to the local field 22 offices. 23 Q. Thank you. 24 And, again, why did McKesson cease providing 25 the DU45 at this point in time, January 2009?</p>
<p style="text-align: right;">Page 383</p> <p>1 I.T. investment to execute the establishment of the 2 suspicious or recording mechanism to report to DEA. 3 Q. As this development effort was 4 underway to develop a new system of suspicious order 5 reporting between McKesson's I.T. and the DEA's I.T. 6 people, how did McKesson report suspicious orders in 7 that interim period? 8 A. We -- we continued to submit the DU45 9 to local field offices. And, in addition, as we 10 identified customers that we had done the due 11 diligence, who had gone through our three-tiered 12 review, and we had made a determination that we were 13 no longer going to sell controlled substances to 14 these customers, we reported those to DEA. 15 And the way -- in fact, I did that work. I 16 would contact DEA directly to ensure that they were 17 aware of the actions we were taking and ensure that 18 they knew that we were reporting those suspicious -- 19 those orders and customers to them. 20 Q. And you mentioned that the DU45s were 21 continued -- McKesson continued to send those while 22 the new system was in development. When did McKesson 23 cease providing DU45 reports to the DEA? 24 A. I think in January of '09, we finally 25 reached mutual agreement that we had a system that</p>	<p style="text-align: right;">Page 385</p> <p>1 A. It was part of our settlement 2 agreement that we agreed to. 3 MS. HENN: Let's take a look at another 4 exhibit, which I will mark -- ask the court reporter 5 to mark as 807, Defense Exhibit 807. 6 (Exhibit No. 807 was marked.) 7 BY MS. HENN: 8 Q. Mr. Walker, you've been handed 9 Defense Exhibit 807, which is a Bates No. MCK-WVA-88. 10 Do you recognize this document? 11 A. Yes, I do. 12 Q. What is it? 13 A. This is an email sequence originating 14 from me to Kyle Wright -- Kyle Wright is a staff 15 member of DEA Diversion Control -- advising him that 16 we had ceased selling controlled substances to a 17 pharmacy in San Antonio, Texas. In the body of 18 the -- of the email I provided him the information as 19 to why we made the decision and the actions that we 20 had taken, primarily to give DEA some additional 21 background that they wouldn't get in just a simple 22 electronic transmission. 23 And he subsequently acknowledged the receipt 24 and also asked me to advise their local field office 25 in San Antonio of the action.</p>

<p style="text-align: right;">Page 386</p> <p>1 Q. And the date of this email exchange 2 is August 14th, 2008; correct? 3 A. That's correct. 4 Q. So -- so this email exchange took 5 place before McKesson ceased providing DEA with the 6 DU45s, as we saw on Exhibit 806; correct? 7 A. That is correct. 8 Q. Before we move off of this 9 Exhibit 807, in your email to Kyle Wright, on the 10 second page of the document, you write, quote: 11 (Reading) Since we are still 12 finalizing the electronic protocol, no 13 systemic report will be made (end of 14 reading). 15 Do you see that? 16 A. I do. 17 Q. What -- what does that mean? What 18 were you conveying to Mr. Wright, of the DEA? 19 A. Just reminding him that we did not 20 have the systemic system in place. I wanted to 21 ensure that he knew that this was the only mechanism 22 that we had to specifically call out this customer 23 that we had ceased selling controlled substances to. 24 Q. And do you recall whether you 25 provided any data to the DEA about this pharmacy's</p>	<p style="text-align: right;">Page 388</p> <p>1 Exhibit 808, please. 2 (Exhibit No. 808 was marked.) 3 BY MS. HENN: 4 Q. So, Mr. Walker, you've been handed a 5 document marked Defense Exhibit 808. The Bates 6 number is MCK-WVA-139. And this is a somewhat 7 lengthy chain of emails, but I'll ask you if you 8 recognize it? 9 A. Yes, I've seen this document before. 10 Q. What is the date on which you 11 received this email chain? 12 A. I received the email chain on 13 November 4th of 2008. 14 Q. And what is it exactly? 15 A. This is a document, and attached is 16 an email from DEA to Jenny, some of which was 17 specific in terms of the data details of the I.T. 18 systems that they were -- really in direct response 19 to some questions that Jenny had, I think, to the 20 individual was Noel Goretsas, who, if I recall, was 21 the I.T. lead for DEA. 22 Q. So you're looking at page 2 of the 23 email, from Noel Goretsas, at the DEA, to Jenny 24 Melton, at McKesson, your I.T. lead? 25 A. Yes.</p>
<p style="text-align: right;">Page 387</p> <p>1 orders, aside from what's in this email? 2 A. I don't recall. I did offer it up in 3 the email that any data that they needed for their 4 follow-up or additional inquiry, we would provide. 5 But I don't recall that there was any request for 6 additional information. 7 Q. Mr. Walker, who at McKesson was 8 responsible for setting up the electronic reporting 9 system that was put into place after the 2008 10 Settlement Agreement with DEA? 11 A. Working on my -- on my team, on my 12 I.T. group, was a lady named Jenny Melton. She was 13 the project lead and coordinator, and she was the 14 direct contact with the DEA contact from the I.T. 15 side. 16 Q. And at the time Ms. Melton was 17 working on this project, were you from time to time 18 aware of communications back and forth between 19 Ms. Melton and her counterpart at DEA? 20 A. At a high level, yes, I was aware. I 21 was aware that there was actually fairly frequent 22 conversations back and forth between Jenny and the 23 I.T. team at DEA. 24 MS. HENN: I'd like to mark another exhibit, 25 ask the court reporter to mark this as Defense</p>	<p style="text-align: right;">Page 389</p> <p>1 Q. What information did DEA, through 2 Noel Goretsas, communicate to Jenny Melton in the 3 course of this work to set up the electronic system 4 about suspicious order reporting? 5 A. There were -- there were a couple of 6 questions that were answered. In looking at the page 7 -142, it provided the technical view on the 8 characters or basically the I.T. format, but also 9 stated that a suspicious order should be reported to 10 DEA only after your company has completed its due 11 diligence and determine that you will not complete 12 the sale because it is suspicious. Stating that 13 suspicious orders are not sales or potential sales. 14 And there was some other discussion around 15 suspicious orders. And then he noted that, report a 16 suspicious order as soon as your company had decided 17 that they will not make the sale because it is 18 suspicious. 19 Q. So was this -- were these -- was this 20 guidance that Mr. Goretsas was providing to McKesson 21 consistent with what you had heard, even dating back 22 to the January 2006 meeting you described with 23 Mr. Rannazzisi and the others from the DEA? 24 A. Yes, it was -- it was consistent with 25 the messaging that I heard in the 2006 meeting.</p>

<p style="text-align: right;">Page 390</p> <p>1 Q. And what did this guidance from DEA 2 mean, in terms of the suspicious order reporting that 3 McKesson would be making to the DEA, if you compare 4 the old DU45 system and this new system put in place 5 pursuant to this guidance? 6 A. First, is that the numbers of 7 suspicious orders that we would report would be 8 significantly less because the methodology in which 9 we were determining whether something was suspicious 10 was far more involved. 11 We would also, in the course of this, be 12 answering their question around ensuring that we were 13 providing them with usable information. 14 And those were our primary intents, was to 15 ensure that our suspicious order reporting was 16 complying with what -- what limited information they 17 provided us in that January 6 meeting. 18 Q. And under the new system McKesson put 19 in place pursuant to this guidance from DEA, what was 20 the frequency of the reports of suspicious orders? 21 A. I don't know that I can answer it in 22 terms of a specific frequency, other than there were 23 a lot fewer Suspicious Order Reports going -- going 24 to DEA. 25 Q. Did this make sense to you?</p>	<p style="text-align: right;">Page 392</p> <p>1 A. No. I mean, the ARCOS reporting 2 requirement remained the same. We continued to 3 report and supply DEA with all of the ARCOS data 4 throughout this process. The ARCOS reporting was 5 uninterrupted and not changed. 6 MS. HENN: Let's take a look at another 7 exhibit. This is internal No. 6. And I'm going to 8 have the court reporter mark this one as Defense 9 Exhibit 80? 10 THE REPORTER: 809. 11 (Exhibit No. 809 was marked.) 12 BY MS. HENN: 13 Q. Mr. Walker, you've been handed a 14 document marked Defense Exhibit 809, Bates 15 No. MCK-WVA-163. 16 Do you recognize Exhibit 809? 17 A. Yes, I do. 18 Q. What is it? 19 A. This is an email, again, originating 20 with me, to Kyle Wright at DEA, advising him of a 21 suspicious order pattern that we had identified in 22 which we ceased selling controlled substances to a 23 pharmacy. 24 And at this point we had also completed the 25 interface between the two, but it was my view I</p>
<p style="text-align: right;">Page 391</p> <p>1 A. Yes, it did. 2 Q. Why? 3 A. My view was that we were -- in our 4 suspicious order and our Controlled Substance 5 Monitoring Program, we were really focused on 6 identifying pharmacies that after the due diligence 7 we had a high degree of confidence were not 8 necessarily complying with their regulatory 9 obligations and potentially diverting controlled 10 substances. And we created as a -- as a very high 11 standard to report the term suspicious order. And 12 suspicious -- and with that, it just reduced the 13 number of customers or pharmacies that we were 14 reporting to the DEA. And very specifically trying 15 to provide them with as much information and expedite 16 the process in their respective enforcement 17 activities. 18 Q. And you've described that under the 19 new system put in place pursuant to the DEA guidance, 20 there would be -- the frequency of suspicious order 21 reporting and the number of Suspicious Order Reports 22 would be fewer or less. 23 Was there any change to the other types of 24 reporting that you, McKesson, provided to DEA, that 25 you've described today?</p>	<p style="text-align: right;">Page 393</p> <p>1 wanted to ensure that -- as with all I.T., I wanted 2 to make sure that the information got to those that 3 needed it, and backed it up with an email that I sent 4 to Kyle Wright. 5 He responded and acknowledged the two 6 suspicious order designations or notifications and 7 directed me to a different DEA associate in contact 8 going forward, Maureen O'Keefe. 9 Q. Who is Maureen O'Keefe? 10 A. I don't -- she's staff coordinator, 11 according to the memo from Kyle. She was on the 12 diversion staff. 13 MS. HENN: Okay. And let's mark another 14 exhibit. This will be -- I will ask that this be 15 marked Defense Exhibit 810, please. 16 (Exhibit No. 810 was marked.) 17 BY MS. HENN: 18 Q. You've been handed Defense 19 Exhibit 810 Bates No. MCK-WVA-187. 20 Do you recognize this document, Mr. Walker? 21 A. Yes, I do. 22 Q. What is it? 23 A. This is a -- an email from me to 24 Maureen O'Keefe, DEA, in which we identify the -- a 25 pharmacy that we ceased selling controls, and</p>

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1 provided some background information. But also
2 wanted to ensure that they could look at and
3 determine and verify that the suspicious order
4 reporting that we sent matched the data set that I
5 attached to the document.
6 Q. And I will show you -- well,
7 actually, what is attached to the document?
8 A. This is a summary of orders for a
9 given pharmacy which we did not fill and that were --
10 and subsequently reported to DEA as suspicious.
11 MS. HENN: I will show you one more example.
12 We will mark this exhibit as Defense Exhibit 811,
13 please.
14 (Exhibit No. 811 was marked.)
15 BY MS. HENN:
16 Q. Mr. Walker, you've been handed
17 Defense Exhibit 811. And I don't think we have a
18 Bates number, but I will try to find out what that
19 is. Oh, actually, I know what it is, but it's not
20 appearing on the document. The Bates number is
21 -534479.
22 Mr. Walker, do you recognize Exhibit 811?
23 A. Yes, I do.
24 Q. What is it?
25 A. This is an email message from Keith

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1 McIntyre, who was also on my I.T. team -- he was
2 responsible for the electronic submission of
3 Suspicious Order Reports to DEA once we were up and
4 running -- indicating that an order had been sent and
5 acknowledged receipt at DEA on September 1st, 2011.
6 Q. Mr. Walker, setting that exhibit
7 aside.
8 After McKesson's Controlled Substance
9 Monitoring Program was in place, did you have further
10 interaction with the DEA about the program?
11 A. Yes, I did. In July of 2008, shortly
12 after the settlement, we requested a meeting with DEA
13 at DEA headquarters so that we could review our
14 Controlled Substance Monitoring Program with them in
15 some -- in some detail.
16 Q. I think Mr. Kennedy asked you about
17 that meeting as well earlier today; is that -- is
18 that correct?
19 A. Yes, he did.
20 MS. HENN: Okay. I'd like to mark this
21 exhibit as 812, Defense Exhibit 812, please. But
22 Counsel, a similar document was marked, but this is
23 different, a different version.
24 (Exhibit No. 812 was marked.)
25 ///

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1 BY MS. HENN:
2 Q. Mr. Walker, you've been handed
3 Defense Exhibit 812. And the Bates number, again, is
4 not appearing on the document you have, but it's
5 -542494. Or maybe it is on yours, not on mine.
6 A. I got it.
7 Q. What is Exhibit 812, if you recognize
8 it?
9 A. I recognize this. This is a
10 PowerPoint presentation that I created for the
11 meeting that we had with DEA in July of 2008.
12 Q. Did -- who created this document?
13 A. I created the document.
14 Q. And what did you use this document
15 for?
16 A. We made -- and I say "we." There
17 were people from McKesson that met with members of
18 the DEA Diversion Team in Washington, D.C. at their
19 headquarters, and the intent of this document was to
20 review with them in some level of specifics the way
21 that we had designed the program, how it was being
22 executed, and what we were -- we were going to do
23 with our Controlled Substance Monitoring Program.
24 Q. Who was present at the July 31st,
25 2008, meeting, starting from the DEA this time, if

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1 you remember?
2 A. My recollection was -- well, Kyle
3 Wright was there from DEA. And I believe Maureen
4 O'Keefe. And if I'm not mistaken, I believe I recall
5 that Barbara Boockholdt, all of which were members of
6 the diversion team. And there were some other
7 members that may have been present, one or two other
8 people.
9 Q. And from McKesson?
10 A. It was myself and counsel. I don't
11 remember if there were any other McKesson members
12 there.
13 Q. Could you turn to page 4 of the slide
14 presentation. What were the components of the CSMP
15 that you discussed with DEA at the meeting?
16 A. Components at a high level was --
17 really, the meat of the program was knowing your
18 customer, which would include the questionnaire and
19 the information that we would gather about the
20 customer and their business.
21 Establishing thresholds, you know, how we
22 would establish thresholds based on customers.
23 Again, knowing the customer, the size of the
24 pharmacy, the business that they -- they had, whether
25 they were supporting an orthopedic clinic or had a

<p style="text-align: right;">Page 398</p> <p>1 nursing home oncology, all of the things that can 2 drive a variation in prescriptions. 3 We were going to monitor our orders against 4 the thresholds that we established, you know, for the 5 customers, and that we would block any orders that 6 exceeded the threshold. So, again, if the order came 7 through, and that quantity ordered exceeded the 8 threshold, the order was blocked. 9 A review and escalation process. Once the 10 blocked order was in place, how we would report 11 suspicious orders and any other reports, and offered 12 up any other analysis or reports the DEA could 13 identify that could help them in their enforcement 14 activities. 15 Q. And turning to page 6, slide 6 of 16 your presentation to the DEA. 17 What did you tell the DEA about steps that 18 McKesson was going to take with respect to existing 19 customers? 20 A. We -- there were -- there were 21 several points that we covered with DEA, that from an 22 existing customer standpoint, we would establish the 23 thresholds. We would review their 12-month purchase 24 history. We would establish default volumes or 25 quantities in each one of the controlled substances.</p>	<p style="text-align: right;">Page 400</p> <p>1 retail national accounts' internal regulatory and 2 loss prevention security organizations to assist us 3 as a insight into their pharmacy practices and their 4 overall control. 5 Q. And one quick question about the 6 analysis of 12-month purchase history that you 7 discussed. It talks -- the slide says, "Set 8 threshold if above family code default." And then it 9 says, "Default if below." 10 What does "default if below" mean? 11 A. If, depending on the -- on the 12 generic base code -- the family code was basically 13 the size of the pharmacy. If their 12-month purchase 14 history, let's just say, it was a fairly large 15 pharmacy but their behavior in terms of purchases or 16 controlled substances was significantly less than 17 what is the average, if you will, for that particular 18 size pharmacy was, we would default to a lower 19 number. 20 So we would always trying to establish 21 thresholds at a -- at a low number to ensure that all 22 the pharmacies were being evaluated appropriately. 23 Q. And turning to page -- slide 9. What 24 did you communicate with DEA during the July 2008 25 meeting about the blocking of orders under the CSMP</p>
<p style="text-align: right;">Page 399</p> <p>1 We emphasized that unlike the LDMP, that the CSMP 2 covered all of the controlled substances that we 3 distributed. 4 There's a lot of focus around the controls 5 that have been abused, but there is a total of -- if 6 I recall, somewhere in the area of the mid 80s, 7 different control base-codes that we also managed 8 under this program. 9 So we had to establish, and we explained to 10 them we had to establish thresholds for every base 11 code for every customer that we had. 12 We indicated that we were going to conduct 13 site visits to customers, and based on priority. 14 They had in the meetings communicated to us that 15 their primary concern in pharmacies that had to 16 date -- to that date, had displayed the greater 17 propensity for illegal -- what they called illegal 18 activity, were independent pharmacies. So we viewed 19 that we needed to prioritize the independents first, 20 focusing on the lifestyle drugs, and ensuring that we 21 understood, you know, where pharmacies had dose 22 quantities that were greater than 25,000. 23 We were also clear with them at the time 24 that we -- how we were going to interact with our 25 retail national accounts. That we would utilize the</p>	<p style="text-align: right;">Page 401</p> <p>1 program at McKesson? 2 A. In the meeting and in discussions 3 with them, that we explained very clearly that we 4 would block the orders that exceeded threshold. That 5 it was specific to the base code and specific to the 6 registrant. 7 And that was a critical piece because many 8 customers have in our system multiple customer 9 numbers. And the DEA's -- in prior meetings it had 10 expressed some concern of making sure that we 11 understood all the sales that went to a customer. 12 So we made sure that they understood it was 13 specific to their registrant, which is a unique 14 number for the DEA, even though there might be 15 multiple McKesson customer numbers. 16 There was no override. There was not going 17 to be any override capability. Any changes in the 18 threshold would be -- would be required. And then a 19 threshold change process was going to be implemented 20 to adjust any thresholds with the documentation. 21 And the customer notification, we were very 22 clear that we would notify -- that DEA -- the DEA 23 that we would alert the customer if they were 24 approaching their threshold along with the -- an 25 invoice notification so that the customers were aware</p>

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1 and -- and, again, explained to them the issues that
 2 we had with ensuring the customers had the ability to
 3 fulfill their orders for their patients when the
 4 orders were absolutely critical and necessary for
 5 fulfilling scripts.
 6 Q. Turn to slide 13. What information
 7 did you provide to DEA during this July 2008 meeting
 8 about the suspicious order reporting component of the
 9 CSMP?
 10 A. We communicated that -- we understood
 11 that there was still the ongoing work that we were
 12 prepared to stop, the DU45 reporting to DEA Field
 13 Offices at the time that they agreed and we agreed --
 14 and primarily they agreed that the format was
 15 acceptable to them in terms of the reporting.
 16 There was -- there certainly was a lot of
 17 contact with DEA around the format and the -- and the
 18 process that we were going to go through. And,
 19 again, what we were trying to be is -- in this
 20 meeting, was clear with them that if there was a
 21 concern or there's other information that we needed
 22 to have, that they could provide it.
 23 And, quite frankly, one of the other things
 24 we asked is to get feedback and create a feedback
 25 process on orders that were reported. We -- we

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1 wanted to understand the effectiveness of our
 2 reporting and our CSMP to understand whether we were
 3 providing them the information that they needed to
 4 manage their enforcement responsibilities for
 5 pharmacies.
 6 Q. Did DEA provide that feedback that
 7 McKesson requested?
 8 A. No, they did not.
 9 Q. What was the DEA's reaction to all of
 10 this information that you provided during the July
 11 2008 meeting about the new CSMP program you put into
 12 place?
 13 A. My -- my recollection of the meeting
 14 was that the DEA was -- well, first, they -- it is
 15 not their habit nor did I expect them to provide a
 16 stamp of approval on it. But their -- overall the
 17 types of discussion and the questions were positive.
 18 There was, you know, a fair amount of body language.
 19 So my takeaway was, is that they were
 20 satisfied with the -- with what we had presented to
 21 them. And additionally, there wasn't any "you missed
 22 it." There was no direction from them that we had
 23 failed in meeting any of the components of the
 24 Memorandum of Agreement, nor did they provide any
 25 specific guidance at all on the -- on the program or

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1 what we could do differently, better, et cetera.
 2 Q. Did you have any follow-up meetings
 3 about the CSMP with the DEA after this July 2008
 4 meeting, that you recall?
 5 A. Well, during -- during the meeting
 6 that we had with DEA, we -- we asked -- and, again,
 7 the reason we asked is that they were clear around
 8 wanting to have more centralized control over
 9 suspicious order reporting.
 10 But what we wanted to do was we wanted to go
 11 to local field offices and share with the local field
 12 offices what we were doing with our Controlled
 13 Substances Monitoring Program. We did that. We took
 14 an offshoot of this document and provided that to the
 15 DRAs so that they could, in fact, have meetings with
 16 the local field offices if the field office wanted to
 17 do that. We reached out to them.
 18 We made a number of presentations to local
 19 field offices by way of the DRAs. I'm not sure
 20 exactly how many. But we did do that. And,
 21 actually, the document that I reviewed with
 22 Mr. Kennedy earlier, I think is actually a copy of
 23 the document we shared with the local field offices.
 24 Q. And did you get any feedback from
 25 those local field offices that reached you about the

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1 2008 -- or about the CSMP that McKesson put in place
 2 in 2008?
 3 A. I didn't get any specific feedback
 4 from the field office personally. The DRAs reported
 5 a generally positive response, again, not unlike like
 6 what we experienced in Washington, D.C.
 7 Q. You've described your meeting at the
 8 headquarters and then the DRAs' meetings that
 9 occurred at local field offices. What, if any, other
 10 interactions did McKesson have on an ongoing basis
 11 with DEA and its distribution centers?
 12 A. Well, throughout this process, there
 13 is what I would call a lot of business as usual
 14 interactions that McKesson distribution centers had
 15 with the local field offices. Inquires around DEA
 16 registrations of pharmacies, you know, around
 17 expiration dates. Those are always a problem with
 18 the DEA.
 19 If there was a report -- there needed to be
 20 a report of a theft or a loss, you know, questions
 21 around -- and procedural things, in particular around
 22 the paperwork, the ARCOS reporting. And the
 23 paperwork required with that sometimes can be
 24 confusing. So there's an ongoing relationship, just
 25 an interactive relationship.

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1 Additionally, the DEA continued to conduct
2 their cyclical audit. A cyclical audit is where the
3 DEA comes in unannounced and inspects the
4 distribution center in a number of different areas,
5 primarily around the recordkeeping, the security of
6 the controlled substances, the handling, reviewing
7 the associates that are authorized to handle
8 controlled substances. All of that is part of the
9 normal cyclical audit.

10 Q. And what would happen if DEA found an
11 issue during one of those cyclical audits?

12 A. Excuse me. There was an Audit Report
13 that was generated out of each one of the audits. If
14 there were actions that needed to be taken by
15 McKesson to correct anything that they identified in
16 the audit, virtually all the time that I can recall,
17 those were fairly minor issues. They were more what
18 I would call procedural.

19 We made the procedural adjustments and
20 reported back to DEA the changes that we made.

21 Q. Mr. Walker, from 2008, when the CSMP
22 was put into place, to 2012, do you know how many
23 Suspicious Order Reports about customers were
24 reported to the DEA by McKesson?

25 A. My recollection is that we were

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1 somewhere in the area of 35 to 40 different
2 pharmacies that we reported and generated suspicious
3 order reporting to DEA.

4 Q. Did you do any analysis to total that
5 number?

6 A. We did -- we did tally up the -- and
7 provide a report.

8 And the report only reflected, you know,
9 what we report at the DEA. What is not and was not
10 reported, because it was not a requirement to report
11 or tallied, was the number of pharmacies that we
12 elected not to do business with during our initial
13 due diligence of a potential new customer. And that
14 number of pharmacies was significantly higher than
15 the 40 that we reported to the DEA.

16 MS. HENN: Let's just mark quickly another
17 exhibit, defense Exhibit 812.

18 THE REPORTER: 813.

19 MS. HENN: 813, thank you.

20 (Exhibit No. 813 was marked.)

21 BY MS. HENN:

22 Q. Mr. Walker, I hand you Defense
23 Exhibit 813, Bates No. MCK-WVA-230.

24 Do you recognize that document?

25 A. Yes, I do.

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1 Q. What is it?

2 A. This is a -- an email to Barbara
3 Boockholdt at DOA -- or excuse me, DEA, that
4 summarizes some actions that we -- and responses that
5 we made -- needed to make to them during our meeting
6 with DEA in January of 2012. We had a separate
7 meeting with DEA.

8 We -- they had indicated that we had only
9 submitted two Suspicious Order Reports. Again, this
10 was very much a surprise to us. We had no indication
11 whatsoever from DEA that the suspicious order
12 reporting was not reaching them.

13 We went back to summarize and identify all
14 the customers that we could identify in our system
15 that we had identified as having suspicious activity
16 and suspicious orders in which we had ceased selling
17 controlled substances to, summarized those to her and
18 reported back, you know, the -- so that she had some
19 record, specific record of actions that we had taken.

20 Q. And is that list attached to your
21 email in Exhibit 813?

22 A. Yes. It's on the last page of that
23 exhibit.

24 Q. Mr. Walker, you were asked by
25 Mr. Kennedy about -- I think you referred to them as

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1 RNA chains, retail national accounts, like Rite Aid
2 and CVS. Could you describe how McKesson performed
3 due diligence on orders by chain pharmacies.

4 A. McKesson, as we had clearly indicated
5 in our program, was going to utilize the regulatory
6 and loss control -- loss control security -- they all
7 had different names for them -- teams at the various
8 chains.

9 In our interaction -- in our business
10 interactions with the retail national accounts, they
11 all had very strong centralized control of their
12 pharmacies and their inventories, and we wanted to
13 leverage the resources to -- they had to help us with
14 understanding, know your customer.

15 And, again, our view was if you understood
16 how one retail national account pharmacy operated in
17 a given chain, they all fundamentally operated the
18 same way because of the heavy centralized control
19 that they had.

20 Q. Mr. Walker, how would you
21 characterize McKesson's efforts to comply with its
22 regulatory responsibilities?

23 A. I would -- I would -- I would say
24 that it is a core competency and something that
25 individuals, particularly in our operations group,

<p>Page 410</p> <p>1 get at the very beginning of their career. You know, 2 both our hourly associates, but especially our 3 management teams. So because we're so regulated, 4 compliance is a key component of what we do. And 5 performance is based on that. There's -- if there's 6 issues that are there, it can affect the individual's 7 performance reviews. 8 So from a cultural standpoint, we strive 9 to -- you know, strive to be -- or strive to be, and 10 I believe continue to strive to be, a very compliant 11 organization and accept that responsibility readily. 12 MS. HENN: Thank you very much, Mr. Walker. 13 I have no further questions. 14 Do you mind if we take a break? It's been a 15 long time. Let's go off the record, please. 16 THE VIDEOGRAPHER: We are going off the 17 record. The time is 7:14 p.m. 18 (Recess taken.) 19 THE VIDEOGRAPHER: We are back on the 20 record. The time is 7:38 p.m. 21 FURTHER EXAMINATION 22 BY MR. KENNEDY: 23 Q. Mr. Walker, this is Eric Kennedy. 24 I'm allowed to ask you some questions in response to 25 the questions that your lawyer asked you a few</p>	<p>Page 411</p> <p>1 moments ago; all right? 2 A. I understand that. 3 Q. And I'm going to try to keep it brief 4 because I know it's late in the day. 5 One of the things that you were shown by 6 McKesson's lawyer was Defense Exhibit 804. And that 7 was a January 18, 2006, letter written by a gentleman 8 at McKesson to the DEA. It was written by Paul 9 Julian. Do you remember that? Do you remember 10 talking about that? 11 A. Yes. 12 Q. And in that -- and this is in regard 13 to the fact that the DEA was -- was unhappy with 14 McKesson with respect to distributing large amounts 15 of hydrocodones to Internet pharmacies; do you recall 16 that? That's what this letter was basically about? 17 MS. HENN: Objection to form. 18 THE WITNESS: I'm trying to find it. But 19 my -- my -- there it is. 20 My understanding of the letter was a 21 response specifically to Mr. Rannazzisi concerning 22 issues that were raised in the meeting, and 23 Mr. Julian representing McKesson's response to that. 24 BY MR. KENNEDY: 25 Q. All right. And you -- actually, I</p>	<p>Page 412</p> <p>1 think you read a footnote on page -1362 of the letter 2 written to the DEA. Do you remember reading that 3 footnote? 4 MS. HENN: Objection to form. 5 BY MR. KENNEDY: 6 Q. Sir, do you remember reading that 7 footnote? 8 A. Counselor, I remember describing the 9 content of the footnote. I don't remember that -- I 10 don't recall that I read it specifically. I just 11 want to be clear. 12 Q. All right. This -- this footnote 13 basically outlines an explanation from McKesson as to 14 why it filled an order of 99,000 doses to United 15 Prescription Services on October 21, 2005; is that 16 what that footnote talks about? 17 A. Yes, that's what's written there. 18 Q. And McKesson's excuse and explanation 19 to the DEA was that there was a hurricane, Hurricane 20 Wilma, and that's why we sent 99,000 doses to United 21 Prescription; right? Is that what that says? 22 A. That's what is noted, yes. 23 Q. And my question is, if this is 24 McKesson's explanation to the DEA with respect to 25 99,000 dosages, what was McKesson's explanation for</p>	<p>Page 413</p> <p>1 the other seven million dosages that the DEA was 2 unhappy about? The other seven million, what was 3 their explanation on those? 4 A. I don't recall that there was any -- 5 any specific response that McKesson provided 6 regarding any other dosages or shipments that the DEA 7 covered. 8 MR. KENNEDY: Could you give me 686, 9 Exhibit 686. 10 Q. And this is the Settlement Agreement 11 with respect to the Internet pharmacy dosages; right? 12 I'm going to pull it up so we can look at 13 it. 14 MS. HENN: Well, he may want it. 15 BY MR. KENNEDY: 16 Q. If you will go to the second page of 17 that Settlement Agreement. 18 A. I got it. 19 MS. HENN: Great. 20 BY MR. KENNEDY: 21 Q. And so the DEA, the conduct that they 22 were talking about was three million dosages to 23 Maryland; right? In Maryland, three million doses. 24 2.1 million into Florida. 2.6 million into Texas. 25 824,000 into Utah. Right?</p>
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<p style="text-align: right;">Page 414</p> <p>1 I mean, that's what this DEA settlement was 2 all about for conduct in '04, '05, and '06; right? 3 Correct? 4 A. This settlement covered the 5 allegations that DEA made. So yes. 6 Q. My question is, you sent the DEA a 7 letter explaining that it was a hurricane that caused 8 you to send 99,000. What was McKesson's explanation 9 to the DEA about the other seven million? 10 MS. HENN: Objection to form. 11 THE WITNESS: Counsel, I don't believe that 12 we made any specific response on any other quantity 13 allegations. I do note that the letter from 14 Mr. Julian to Mr. Rannazzisi was in October of -- 15 where's the letter just real quick? 16 MS. HENN: This one. 17 THE WITNESS: Was in January of '06. So 18 what I'm not -- don't recall is what information we 19 had at hand in terms of the number of doses that the 20 DEA was alleging at that time. 21 BY MR. KENNEDY: 22 Q. Well, my question is, why did you -- 23 why did you show us an explanation for 99,000 when, 24 in fact, the alleged conduct involved over seven 25 million dosages?</p>	<p style="text-align: right;">Page 416</p> <p>1 BY MR. KENNEDY: 2 Q. Between 2000 and 2005, you said you 3 were out of Regulatory for that period of time, and 4 what was your job? 5 A. I was -- I can't remember my specific 6 title, but I was the Senior Vice President overseeing 7 Six Sigma. 8 Q. And what did that involve? Did that 9 involve regulation of controlled substances? 10 A. Not at all. 11 Q. Not at all. 12 How many meetings with the DEA did you go to 13 between 2000 and 2005? 14 A. None. 15 Q. How many DEA seminars did you go to 16 between 2000 and 2005? 17 A. None that I remember. 18 Q. How many regulatory meetings did you 19 go to at McKesson between 2000 and 2005 with respect 20 to controlled substances? 21 A. I don't recall going to any. 22 Q. So when you said that in January of 23 '06 this was the first time that Mr. Rannazzisi of 24 the DEA made certain representations to you with 25 respect to the responsibilities, you had not been</p>
<p style="text-align: right;">Page 415</p> <p>1 A. Again -- 2 MS. HENN: Objection to form. 3 Go ahead. 4 THE WITNESS: It's really two different -- 5 in my view, it's two different pieces of information. 6 The letter is in direct response to items 7 that were outlined as -- as we understood them in the 8 January '06 meeting. The settlement and the 9 allegations in the settlement, to my recollection, 10 not all of those were shared with us during the 11 course of the meeting that we had with 12 Mr. Rannazzisi. 13 So the best way I can answer the question is 14 this is a direct response to Mr. Rannazzisi around 15 the issues that he personally raised in that January 16 '06 meeting. 17 BY MR. KENNEDY: 18 Q. All right. We're sitting here today, 19 now it's way, way later. Tell me the explanation 20 that was provided for the other seven million 21 dosages, other than 99,000? What was provided? 22 MS. HENN: Objection to form. 23 THE WITNESS: Counsel, I do not believe -- 24 as I stated, I don't believe that we had any other 25 specific response to DEA.</p>	<p style="text-align: right;">Page 417</p> <p>1 involved with Regulatory for five years; is that 2 correct? 3 A. I had not been directly involved with 4 Regulatory during that time frame. 5 Q. Now, there was a lot of time spent in 6 your questioning about a meeting that you had with 7 the DEA in July of 2008. Do you remember all those 8 questions about a meeting with the DEA and the 9 presentations that you made to the DEA and McKesson 10 made to the DEA with respect to its 2008 Controlled 11 Substances Monitoring Program? Do you recall all 12 those questions? 13 A. Yes. 14 Q. And I think you went through great 15 details. We told the DEA we're going to do this. We 16 told them the monitoring program would include this. 17 And this was all about the program that you were 18 going to implement in 2008; correct? 19 A. Yes, it was about the program that we 20 were implementing. 21 Q. And I wrote it down. I think you 22 said that by their body language, you thought that 23 the DEA was satisfied with the monitoring program 24 that you were going to implement in 2008; correct? 25 Do you remember saying that?</p>

<p style="text-align: right;">Page 418</p> <p>1 A. I believe that was my testimony.</p> <p>2 Q. Well, let me -- let me ask you: Your</p> <p>3 monitoring program, the McKesson monitoring program</p> <p>4 that you outlined for the DEA at that meeting in</p> <p>5 2008, could we agree that that monitoring program</p> <p>6 isn't going to be of any use unless you follow it;</p> <p>7 right?</p> <p>8 A. I would agree that it was certainly</p> <p>9 our intent and our commitment that we would execute</p> <p>10 our Controlled Substance Monitoring Program and</p> <p>11 explained that to DEA.</p> <p>12 Q. Right. And can we agree, just</p> <p>13 because you write a monitoring program on paper, put</p> <p>14 it into a heading of, this is our Controlled</p> <p>15 Substances Monitoring Program and show it to the DEA,</p> <p>16 just because it's on the paper doesn't mean it's</p> <p>17 going to be effective or work unless you follow it;</p> <p>18 right? You've got to follow it?</p> <p>19 A. The monitoring program that we</p> <p>20 presented, we applied and we followed.</p> <p>21 Q. Sir, would you answer my question,</p> <p>22 please. The monitoring program you put on paper is</p> <p>23 of no effect, it's no good to anybody unless you</p> <p>24 follow it; is that true?</p> <p>25 A. I wouldn't agree with that statement.</p>	<p style="text-align: right;">Page 420</p> <p>1 we executed that program, as described, and with the</p> <p>2 intent and certainly the execution to ensure that we</p> <p>3 were meeting our regulatory requirements.</p> <p>4 Q. But if you don't execute, the paper</p> <p>5 doesn't do anybody any good; correct?</p> <p>6 MS. HENN: Objection. Asked and answered.</p> <p>7 THE WITNESS: I wouldn't characterize it --</p> <p>8 again, I -- the program was in place. We were</p> <p>9 diligent in executing against the program.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. Let's look at how diligent you were</p> <p>12 in executing, then. Let's look at Exhibit 730, if we</p> <p>13 could.</p> <p>14 MR. ASQUITH: It's a new one.</p> <p>15 MS. HENN: Do you have a copy? That's the</p> <p>16 only copy.</p> <p>17 Oh, this is an exhibit you withdrew. There</p> <p>18 you go.</p> <p>19 (Exhibit No. 730 was marked.)</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. Pursuant to your agreement and your</p> <p>22 communication to the DEA and your monitoring program,</p> <p>23 there should be Level 1 Reviews when a pharmacy</p> <p>24 orders over their threshold; correct? Is that</p> <p>25 correct, sir?</p>
<p style="text-align: right;">Page 419</p> <p>1 Clearly, the monitoring program that we put in place,</p> <p>2 we executed against and continued to provide the</p> <p>3 regulatory recite of controlled substances.</p> <p>4 MS. HENN: Counsel, I'm going -- we're going</p> <p>5 to need to go off the record so the court reporter</p> <p>6 can get her car out of the garage.</p> <p>7 THE VIDEOGRAPHER: We are going off the</p> <p>8 record. The time is 7:50 p.m.</p> <p>9 (Off the record.)</p> <p>10 THE VIDEOGRAPHER: We are back on the</p> <p>11 record. The time is 7:58 p.m.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Mr. Walker, we were talking about the</p> <p>14 representations that you made to the DEA with respect</p> <p>15 to the monitoring program that you were going to put</p> <p>16 into place in 2008. And I asked you, if you -- could</p> <p>17 you agree that putting a monitoring program on paper</p> <p>18 and representing to the DEA at your meeting with the</p> <p>19 DEA back in 2008 -- representing to them everything</p> <p>20 that you were going to do in this written monitoring</p> <p>21 program, can we agree that that does no one any good,</p> <p>22 it doesn't work unless you actually follow your</p> <p>23 program? Agreed?</p> <p>24 A. What I think my response -- what I</p> <p>25 can agree to is that we put the program in place, and</p>	<p style="text-align: right;">Page 421</p> <p>1 A. There -- in orders that went over the</p> <p>2 threshold, a Level 1 Review was -- was called out.</p> <p>3 Q. That's what should be done under the</p> <p>4 program; right?</p> <p>5 A. That's correct.</p> <p>6 Q. And you represented that to the DEA</p> <p>7 at your meeting in 2008? If somebody omits, meaning</p> <p>8 they order over the threshold, there will be a</p> <p>9 Level 1 Review; correct?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 THE WITNESS: What I represented to the DEA</p> <p>12 and reviewed with them is that as a -- if somebody</p> <p>13 exceeded a threshold, we would conduct a Level 1</p> <p>14 Review.</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. Exhibit 730 is an audit done by</p> <p>17 McKesson in March of 2011. Is that what it says on</p> <p>18 the cover page, March of 2011 Audit Report?</p> <p>19 A. Yes.</p> <p>20 Q. If you go to page -498069. Do you</p> <p>21 see that? "Level 1 Forms," do you see that title?</p> <p>22 Level 1 Forms.</p> <p>23 A. Yes.</p> <p>24 Q. Delran, what is that? Is that one of</p> <p>25 your distribution centers?</p>

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1 A. Delran, New Jersey was one of our
2 distribution centers.
3 Q. Under that it says:
4 (Reading) Omit Reports were not being
5 signed by DC management as required by
6 policy. In addition, the required
7 Level 1 forms were not completed for
8 20 of 56 omits in July 2010, and all
9 54 omits for the month of November
10 2010 (end of reading).
11 Did I read that right?
12 A. Yes.
13 Q. This policy is no good unless you
14 follow it. Can you agree with that? No good unless
15 you follow it?
16 MS. HENN: Objection to form.
17 BY MR. KENNEDY:
18 Q. Is that agreeable?
19 A. I don't agree with that statement.
20 What I would agree with is that we had, as
21 part of our control substance, any threshold that
22 generated a Level 1 Review needed to take place. My
23 interpretation of and review of this document is that
24 we failed to complete the paperwork associated with
25 that.

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1 Q. Now, New Castle. This is another
2 distribution center; right?
3 A. Yes.
4 Q. Under that one it says:
5 (Reading) The Omit Reports were not
6 being signed by DC management as
7 required by policy. In addition, the
8 required Level 1 forms were not
9 completed for 21 of 31 -- 30 omits in
10 July 2010, and 20 of 27 omits in
11 November 2010 (end of reading).
12 Did I read that right?
13 A. Yes, you read it correctly.
14 Q. Washington Court House, is that
15 another distribution center?
16 A. Yes, it is.
17 Q. Does that say:
18 (Reading) the required Level 1 forms
19 were not completed for all 19 omits in
20 July 2010, and all 11 omits in
21 November (end of reading)?
22 Is that what that says about that
23 distribution center?
24 A. Yes.
25 Q. Conroe, on the next page. That's

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1 another distribution center; is it not?
2 A. Yes, it is.
3 Q. Does that state:
4 (Reading) The Omit Reports were not
5 signed and dated by management as
6 required by policy. In addition,
7 Level 1 forms were not completed for
8 July and November 2010 omits. CSMP
9 Excursion contract forms were used in
10 place of Level 1 forms, although 22 of
11 35 omits in July and 17 out of 35
12 omits in November didn't have any
13 completed documentation (end of
14 reading).
15 Did I read that right?
16 A. Yes, you read that correctly.
17 Q. And let me ask you, when you had your
18 meeting with the DEA in 2008 to outline your
19 Controlled Substance Monitoring Program for them, did
20 you tell them that you would have sales reps doing
21 the Level 1 investigations? Did you tell them that?
22 MS. HENN: Objection to form.
23 THE WITNESS: I don't recall that we
24 specified who would conduct the Level 1 Reviews.
25 ///

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1 BY MR. KENNEDY:
2 Q. You told them, did you not -- you
3 described to them that you would have a system
4 whereby pharmacies could request an increase in their
5 threshold. Did you tell that to the DEA, that that
6 would be part of your program, pharmacies could
7 request increases in their threshold?
8 MS. HENN: Objection to form. Lacks
9 foundation.
10 THE WITNESS: Yes, that was --
11 BY MR. KENNEDY:
12 Q. And in your PowerPoint you
13 specifically represented, did you not, that if you
14 were going to increase the threshold, it would
15 require documentation?
16 A. Let me make sure I understand what
17 page you're referring to there.
18 Q. Mine aren't numbered.
19 A. Okay.
20 MS. HENN: They are. Bottom right. Tiny,
21 tiny number.
22 MR. KENNEDY: Oh, I'm sorry. Seven.
23 THE WITNESS: Seven.
24 BY MR. KENNEDY:
25 Q. Slide No. 7 you created.

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1 Did you tell the DEA if you were going to
 2 adjust the threshold, it would require documentation?
 3 A. That's what I covered with the DEA in
 4 that meeting.
 5 Q. Did you tell them that you would be
 6 giving threshold -- giving threshold increases for
 7 reasons such as Thanksgiving? Did you tell them
 8 that?
 9 A. We didn't have any discussion in that
 10 meeting around reasons for increases.
 11 Q. Did you tell them in that meeting
 12 that you would be increasing thresholds 30 stores at
 13 a time for chain pharmacies? Did you tell them that?
 14 A. Again, we had no discussion on the
 15 reasons that we would be increasing thresholds.
 16 Q. Did you tell them that you would be
 17 increasing thresholds for CVS without explanation for
 18 CVS? Did you tell them that?
 19 A. In that meeting we had no discussion
 20 around increases or how we would increase thresholds.
 21 Q. Did you tell them, that in the system
 22 that you would be implementing, that customers would
 23 be told that they could expect a decision on a
 24 threshold increase within one day? Did you tell them
 25 that?

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1 MS. HENN: Objection to form. Lacks
 2 foundation.
 3 THE WITNESS: Again, I don't recall any
 4 discussion around the specifics of how we would grant
 5 increases in thresholds.
 6 BY MR. KENNEDY:
 7 Q. Did you tell them that this system
 8 would be such that McKesson would tell pharmacies
 9 that if they requested an increase, that they could
 10 presume that that threshold increase was granted and
 11 approved unless they heard otherwise?
 12 MS. HENN: Objection to form.
 13 BY MR. KENNEDY:
 14 Q. Did you tell the DEA that that's the
 15 kind of system that you would implement?
 16 MS. HENN: Lacks foundation.
 17 THE WITNESS: Counsel, we had no discussion
 18 around our methodology of threshold increases.
 19 BY MR. KENNEDY:
 20 Q. Did you tell them that you would be
 21 increasing thresholds on a permanent basis because of
 22 a holiday season? Did you tell them that?
 23 MS. HENN: Objection to form. Lacks
 24 foundation.
 25 THE WITNESS: Again, Counsel, we -- at that

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1 meeting we just -- we did not have any discussions
 2 around the details of threshold increases, nor were
 3 there any questions asked.
 4 BY MR. KENNEDY:
 5 Q. And, sir, you went all through this
 6 discussion with the DEA about how you were going to
 7 report suspicious orders to them; did you not?
 8 MS. HENN: Objection to form.
 9 THE WITNESS: We -- we covered with them the
 10 process and how we would -- and when we would report
 11 suspicious orders based on our three-tiered review
 12 process.
 13 BY MR. KENNEDY:
 14 Q. But, again, if you don't follow your
 15 own policies that you put in writing, they don't do
 16 anybody any good, do they, unless you follow them;
 17 right?
 18 A. We followed our policies as we
 19 outlined.
 20 Q. Sir, do you understand that in
 21 Cuyahoga County, Ohio between 2008 and August of
 22 2013, there were 481 times that one of your customers
 23 ordered over their threshold? Do you understand
 24 that?
 25 MS. HENN: Objection to form. Lacks

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1 foundation.
 2 THE WITNESS: I have no knowledge of all of
 3 the pharmacies in that county.
 4 BY MR. KENNEDY:
 5 Q. Well, do you understand that of the
 6 400 times they ordered over their threshold, not one
 7 single report was ever made to the DEA? Do you know
 8 that?
 9 MS. HENN: Objection to form. Lacks
 10 foundation.
 11 BY MR. KENNEDY:
 12 Q. Do you know that?
 13 A. I don't know that.
 14 Q. Do you know that in Summit County,
 15 Ohio, between 2008 and August of 2013, there were 517
 16 occasions where a McKesson customer ordered over
 17 their threshold and not one single report was made to
 18 the DEA? Do you understand that?
 19 MS. HENN: Objection to form. Lacks
 20 foundation.
 21 THE WITNESS: Again, I have no specific
 22 knowledge of pharmacies in either one of those
 23 counties.
 24 BY MR. KENNEDY:
 25 Q. Is Landover one of your distribution

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1 centers, sir?

2 A. Landover was one of our distribution

3 centers. It closed in 2012, I believe.

4 Q. And this comes from the DEA, so you

5 should be aware of this.

6 Are you aware of the DEA finding that

7 between May of 2008 and July of 2011, over a

8 three-year period, McKesson from the Landover

9 Distribution Center did not report one single

10 suspicious order to the DEA? Are you aware of that

11 finding by the DEA?

12 MS. HENN: Objection to form. Lacks

13 foundation.

14 THE WITNESS: I have no -- no knowledge of

15 that.

16 BY MR. KENNEDY:

17 Q. You didn't receive the report from

18 the DEA making that statement, sir?

19 MS. HENN: Objection to form. Lacks

20 foundation.

21 THE WITNESS: I don't recall receiving any

22 report or information specific to that.

23 BY MR. KENNEDY:

24 Q. Livonia, is that a distribution

25 center of McKesson?

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1 A. Yes, it is.

2 Q. In Michigan?

3 A. Michigan.

4 Q. Do you understand that the DEA found

5 that for a five-year period, not one suspicious order

6 was reported to the DEA by that distribution center?

7 MS. HENN: Objection to form.

8 BY MR. KENNEDY:

9 Q. Are you aware of that?

10 MS. HENN: Lacks foundation.

11 THE WITNESS: Again, Counsel, I have no

12 knowledge or specific recollection of that.

13 BY MR. KENNEDY:

14 Q. You didn't review the documentation

15 sent to the DEA with that finding, sir?

16 MS. HENN: Objection to form. Lacks

17 foundation.

18 THE WITNESS: I -- I don't remember.

19 BY MR. KENNEDY:

20 Q. Lakeland, Florida, that's a

21 distribution center; correct?

22 A. Yes.

23 Q. Are you aware of the DEA finding that

24 for a five-year period, not a single suspicious order

25 was reported to the DEA from that distribution

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1 center?

2 MS. HENN: Objection to form. Lacks

3 foundation.

4 THE WITNESS: Again, absent the

5 documentation, I don't remember any specific report

6 on that.

7 BY MR. KENNEDY:

8 Q. Methuen, Massachusetts, is that

9 another distribution center?

10 A. Yes, it is.

11 Q. Did you review the DEA documentation

12 sent to McKesson that between '08, 2008 and 2013, not

13 one single suspicious order was reported to the DEA

14 out of that distribution center?

15 MS. HENN: Objection to form. Lacks

16 foundation.

17 THE WITNESS: I don't have any recollection

18 of reviewing any documents summarizing that.

19 BY MR. KENNEDY:

20 Q. And, sir, you've told us that

21 McKesson diligently, aggressively applied the 2008

22 Controlled Substances Monitoring Program; is that

23 what you've told us?

24 A. Yes, that was my testimony.

25 Q. Sir, didn't McKesson get fined

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1 \$150 million by the DEA because of their failures

2 with respect to the 2008 program, leading all the way

3 up from 2008 and '09, '10, '11, '12, '13, '14, '15,

4 '16, and '17? \$150 million.

5 MS. HENN: Objection to form.

6 BY MR. KENNEDY:

7 Q. Do you recall that, sir?

8 MS. HENN: Objection to form. Lacks

9 foundation. Mischaracterizes.

10 THE WITNESS: All that I'm aware of is

11 that -- and because it was public information, is

12 that McKesson paid \$150 million. I don't understand

13 any of the details of the settlement, of the

14 documentation, because all of it occurred after I

15 left the company.

16 BY MR. KENNEDY:

17 Q. When did you leave the company?

18 A. In June of 2015.

19 Q. And the DEA fine of \$150 million

20 involved conduct from '08 to '15, while you were the

21 head of Regulatory; do you understand that?

22 MS. HENN: Objection to form. Lacks

23 foundation.

24 THE WITNESS: Again, Counsel, I was not here

25 when they -- all of that was finalized and completed.

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1 So I don't understand what was in the allegations
2 presented by the DEA.
3 MR. KENNEDY: Give me P.88, please. This is
4 Exhibit 814.
5 (Exhibit No. 814 was marked.)
6 BY MR. KENNEDY:
7 Q. If you will look at that very last
8 page. Do you see that this is dated 1-5-17, at least
9 the signatures, one of the signatures? 1-5-17, it's
10 on the back cover.
11 A. Yes.
12 Q. If you look at the front cover, the
13 front page, is this titled, "Administrative
14 Memorandum Agreement?"
15 A. Yes, it is.
16 Q. And does the first paragraph say:
17 (Reading) The Administrative
18 Memorandum Agreement is entered into
19 by and between the United States
20 Department of Justice, Drug
21 Enforcement Administration, and
22 McKesson Corporation (end of reading)?
23 Is that what it says?
24 A. Yes.
25 Q. And if you'll go to page 88.3 up at

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1 the -- up at the top. And look at No. 2. Does No. 2
2 say, "Acceptance of Responsibility"?
3 A. Yes.
4 Q. That's acceptance of responsibility
5 by McKesson; isn't it, sir?
6 MS. HENN: Objection to form.
7 BY MR. KENNEDY:
8 Q. Is that what that means?
9 MS. HENN: Objection to form.
10 THE WITNESS: That's what it says, Counsel.
11 Quite honestly, I don't know under the legal terms of
12 a settlement agreement what that means. I don't have
13 the legal expertise.
14 BY MR. KENNEDY:
15 Q. Well, so what I'm -- can you explain
16 to me how you can come in here and tell us that
17 McKesson was diligent and aggressive in following and
18 implementing its 2008 agreement, and you haven't read
19 the settlement covering that same period of time with
20 respect to the implementation of that program? How
21 can you -- how can you not have read this?
22 MS. HENN: Objection to form.
23 THE WITNESS: Counsel, I wasn't with the
24 company when -- to my knowledge, when this document
25 was -- was generated.

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1 BY MR. KENNEDY:
2 Q. How many hours have you spent with
3 McKesson's lawyer prior to today reviewing documents
4 and other materials in preparation for today's
5 testimony? How many hours, sir?
6 A. A number of them.
7 Q. How many, sir?
8 A. Five or six.
9 Q. And how many different days, sir?
10 A. How many different days?
11 Q. Yes.
12 A. Five or six.
13 Q. Five or six days?
14 A. Yes.
15 Q. And they never showed you this
16 document before you came in here to testify that
17 McKesson was aggressive and diligent in implementing
18 its policies? You were never shown this?
19 A. In reviewing this document, I think
20 it was shown. This document, I believe, we did not
21 cover in detail.
22 Q. Well, under "Acceptance and
23 Responsibility," go down about four or five lines
24 down in the middle where the sentence starts with,
25 "McKesson."

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1 Does it state:
2 (Reading) McKesson acknowledges that,
3 at various times during the period
4 from January 1, 2009, up through and
5 including the effective date of this
6 agreement (the covered period of
7 time), it did not identify or report
8 to DEA certain orders placed by
9 certain pharmacies which should have
10 been detected by McKesson as
11 suspicious based upon the guidance
12 contained in the DEA letters about the
13 requirements set forth in 21 C.F.R
14 1301.74(b) and 21 U.S.C 842(a)(5)
15 (end of reading)?
16 Do you see where it states that McKesson
17 acknowledged those failures; sir? Is that what it
18 states?
19 MS. HENN: Objection to form.
20 THE WITNESS: That's what the document
21 states.
22 BY MR. KENNEDY:
23 Q. Look down to the next paragraph, if
24 you would. About five lines down it starts with
25 "McKesson." Do you see that?

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<p>1 A. Yes.</p> <p>2 Q. Does it state, again:</p> <p>3 (Reading) McKesson acknowledges that,</p> <p>4 at various times during the covered</p> <p>5 time period, it did not identify or</p> <p>6 report to DEA certain orders placed by</p> <p>7 certain pharmacies which should have</p> <p>8 been detected by McKesson as</p> <p>9 suspicious in a manner fully</p> <p>10 consistent with requirements set forth</p> <p>11 in the 2008 Memorandum of</p> <p>12 Understanding (end of reading)?</p> <p>13 Is that what it states?</p> <p>14 A. That's -- yes, that's what it states.</p> <p>15 Q. Covered conduct, No. 3, A. Does it</p> <p>16 state:</p> <p>17 (Reading) McKesson failed to maintain</p> <p>18 effective controls against diversion</p> <p>19 of particular controlled substances</p> <p>20 into other than legitimate medical,</p> <p>21 scientific, and industrial channels by</p> <p>22 sales to certain of its customers in</p> <p>23 violation of the Controlled Substance</p> <p>24 Act and the Controlled Substance Act's</p> <p>25 implementing regulations (end of</p>	<p>1 document.</p> <p>2 Q. And, sir, is it still your testimony</p> <p>3 that McKesson was aggressive in its implementation of</p> <p>4 its own Controlled Substances Monitoring Program? Is</p> <p>5 that still your testimony, sir?</p> <p>6 A. Yes, it is.</p> <p>7 Q. Let's look to the next page. If we</p> <p>8 look at C, this was specific to what you've been</p> <p>9 telling us. Does it state on C:</p> <p>10 (Reading) McKesson failed to follow</p> <p>11 the procedures and policies set forth</p> <p>12 in the McKesson CSMP to detect and</p> <p>13 disclose suspicious orders of</p> <p>14 controlled substances (end of</p> <p>15 reading)?</p> <p>16 Is that what it states, sir?</p> <p>17 A. Yes, that's what the document states.</p> <p>18 Q. Does it next state:</p> <p>19 (Reading) Among other things, McKesson</p> <p>20 failed to conduct adequate due</p> <p>21 diligence of its customers, failed to</p> <p>22 keep complete and accurate records of</p> <p>23 the CSMP files maintained for many of</p> <p>24 its customers, and bypassed suspicious</p> <p>25 order reporting procedures set forth</p>
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<p>1 reading)?</p> <p>2 Does it say that?</p> <p>3 A. Yes.</p> <p>4 Q. And then does it outline the</p> <p>5 different distribution centers where these failures</p> <p>6 occurred, sir?</p> <p>7 MS. HENN: Objection to form.</p> <p>8 Mischaracterizing the document.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. Does it outline the distribution</p> <p>11 centers where this conduct occurred?</p> <p>12 MS. HENN: Same objection.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. Does it, sir?</p> <p>15 A. Just a minute.</p> <p>16 What I -- what I read is that the</p> <p>17 distribution centers listed there -- it said at</p> <p>18 McKesson -- at the distribution centers, including</p> <p>19 the following, with the list of distribution centers</p> <p>20 that are down below.</p> <p>21 Q. Right. Distribution center --</p> <p>22 McKesson Distribution Center in Colorado, Illinois,</p> <p>23 New Jersey, Wisconsin, Florida, Maryland, Nebraska,</p> <p>24 Michigan, Massachusetts, and California; correct?</p> <p>25 A. That's what's written in the</p>	<p>1 in McKesson's CSMP (end of reading)?</p> <p>2 Did I read that right?</p> <p>3 A. You read that correctly.</p> <p>4 Q. And, sir, could we agree -- and I'm</p> <p>5 only going to ask you one more time. Could we agree</p> <p>6 that writing a policy, putting it on paper, meeting</p> <p>7 with the FDA [sic] and saying these are our policies,</p> <p>8 that doesn't do anybody any good unless you follow</p> <p>9 your own policies?</p> <p>10 MS. HENN: Objection to form.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. Could we agree to that, sir?</p> <p>13 A. I don't agree with that statement. I</p> <p>14 strongly believe that we were executing and doing</p> <p>15 everything in our capability that we could to manage</p> <p>16 our Controlled Substance Monitoring Program.</p> <p>17 Q. And the FDA [sic] disagreed when they</p> <p>18 fined you \$150 million; correct?</p> <p>19 MS. HENN: Objection to form.</p> <p>20 THE WITNESS: Again, I'm not going to</p> <p>21 speculate, because I wasn't involved in the process</p> <p>22 of how that was negotiated and reached.</p> <p>23 MR. KENNEDY: I have nothing further. Thank</p> <p>24 you, sir.</p> <p>25 MS. HENN: We have no further questions</p>

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1 either.

2 We have just two things to note. We would

3 request that the transcript be designated highly

4 confidential pending review and further designations.

5 And we request that the witness have the

6 opportunity to read and sign.

7 Thank you very much.

8 THE VIDEOGRAPHER: This concludes the video

9 deposition of Donald Walker, consisting of eight

10 media.

11 The time is 8:23 p.m. We are off the

12 record.

13 (The deposition was concluded at 8:23 p.m.)

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1 Please be advised I have read the foregoing

2 deposition, and I state there are:

3 (Check one) _____ NO CORRECTIONS

4 _____ CORRECTIONS PER ATTACHED

5

6

7 _____

8 DONALD WALKER

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1 DEPONENT'S CHANGES OR CORRECTIONS

2 Note: If you are adding to your testimony, print the

3 exact words you want to add. If you are deleting from

4 your testimony, print the exact words you want to

5 delete. Specify with "Add" or "Delete" and sign this

6 form.

7 DEPOSITION OF: DONALD WALKER

8 CASE: IN RE NATIONAL PRESCRIPTION OPIATE LITIGATION

9 DATE OF DEPOSITION: JANUARY 10, 2019

10 PAGE LINE CHANGE/ADD/DELETE/REASON

11 _____

12 _____

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24 DEPONENT'S SIGNATURE _____

25 DATE _____

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1 CERTIFICATE OF REPORTER

2 I, SANDRA BUNCH VANDER POL, a Certified

3 Shorthand Reporter, hereby certify that the witness in

4 the foregoing deposition was by me duly sworn to tell

5 the truth, the whole truth and nothing but the truth

6 in the within-entitled cause;

7 That said deposition was taken down in shorthand

8 by me, a disinterested person, at the time and place

9 therein stated, and that the testimony of the said

10 witness was thereafter reduced to typewriting, by

11 computer, under my direction and supervision;

12 That before completion of the deposition, review

13 of the transcript was requested. If requested, any

14 changes made by the deponent (and provided to the

15 reporter) during the period allowed are appended

16 hereto.

17 I further certify that I am not of counsel or

18 attorney for either or any of the parties to the said

19 deposition, nor in any way interested in the event of

20 this cause, and that I am not related to any of the

21 parties thereto.

22 DATED: JANUARY 14, 2019

23 _____

24 SANDRA BUNCH VANDER POL, CSR 3032

25